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# **IDAHO CODE PERTAINING TO** **EMERGENCY MEDICAL SERVICES** **AND RELATED SYSTEMS**

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Includes Revisions Passed in the 2011 Legislative Session

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# IDAHO CODE RELATING TO EMERGENCY MEDICAL SERVICES BUREAU

## TITLE 5 PROCEEDINGS IN CIVIL ACTIONS IN COURTS OF RECORD

**5-330. IMMUNITY OF PERSONS GIVING FIRST AID FROM DAMAGE CLAIM.** That no action shall lie or be maintained for civil damages in any court of this state against any person or persons, or group of persons, who in good faith, being at, or stopping at the scene of an accident, offers and administers first aid or medical attention to any person or persons injured in such accident unless it can be shown that the person or persons offering or administering first aid, is guilty of gross negligence in the care or treatment of said injured person or persons or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said injured person or persons, or upon delivery of said injured person or persons into custody of an ambulance attendant

**5-331. IMMUNITY OF VOLUNTEER AMBULANCE ATTENDANT.** No action shall lie or be maintained for civil damages in any court of this state against any person or persons, or group of persons, including volunteer ambulance attendants, who offers and administers first aid or emergency medical attention as a part of his volunteer service as an ambulance attendant to any person or persons utilizing the volunteer services and facilities, unless it can be shown that the person or persons offering or administering first aid or emergency medical attention is guilty of gross negligence in the care or treatment offered or administered, or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured or treated person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said ill or injured person or persons.

**5-332. CONSENT FOR EMERGENCY MEDICAL TREATMENT.** The authorization or refusal of consent for emergency medical treatment under section 5-330 or 5-331, Idaho Code, shall be governed by chapter 45, title 39, Idaho Code

**5-333. IMMUNITY OF UNDERGROUND MINE RESCUE PARTICIPANTS, THEIR EMPLOYERS AND REPRESENTATIVES.** No person or persons engaged in underground mine rescue or recovery work who, in good faith, render(s) emergency care, rescue, assistance or recovery services at the scene of any emergency in a mine in this state, shall be liable for any civil damages as a result of any act or omission by such person(s) in rendering such emergency care, rescue, assistance or recovery service.

Neither the employer nor a labor organization which represents any person(s) entitled to the immunity provided in this act shall be liable for any civil damages as a result of any act or omission of any person(s) entitled to such immunity.

**5-337. IMMUNITY FOR USE OF AUTOMATED EXTERNAL DEFIBRILLATOR (AED).**

- (1) As used in this section, "defibrillator" means an "automated external defibrillator (AED)" which has been prescribed by a physician or osteopath licensed pursuant to chapter 18, title 54, Idaho Code.
- (2) In order to promote public health and safety:
  - (a) A person or entity who acquires a defibrillator as a result of a prescription shall ensure that:
    - (i) Expected defibrillator users receive training in its use and care equivalent to the CPR and AED training of the American heart association, the American red cross or similar entities;
    - (ii) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;
    - (iii) There is involvement of a licensed physician in the site's program to ensure compliance with requirements for training, notification, maintenance and guidelines for use;
    - (iv) Any person who renders emergency care or treatment to a person in cardiac arrest by using a defibrillator must activate the emergency medical services system as soon as possible, and must report any clinical use of the defibrillator to the prescribing physician.
  - (b) Any person or entity who acquires a defibrillator as a result of a prescription shall notify an agent of the emergency communications system or emergency vehicle dispatch center of the existence, location and type of defibrillator.
- (3) (a) Any person who reasonably renders emergency care using a defibrillator, without remuneration or expectation of remuneration, at the scene of an accident or emergency to a victim of the accident or emergency shall not be liable for any civil damages resulting from the person's acts or omissions.

- (b) No cause of action shall be maintained against a licensed physician, osteopath, physician assistant, nurse practitioner, or nurse, or against an emergency medical technician, fireman, peace officer, ambulance attendant or other person trained to use a defibrillator, or against a person or entity who acquires or maintains a defibrillator which arises from the reasonable use of a defibrillator in an emergency setting and no cause of action shall be maintained against the physician or osteopath who wrote the prescription for the defibrillator if the prescription was written in good faith.
- (c) This immunity from civil liability does not apply if the acts or omissions amount to gross negligence or willful or wanton or reckless misconduct.
- (4) A defibrillator acquired pursuant to a prescription and possessed in compliance with subsection (2) of this section is exempt from the provisions of chapter 10, title 56, Idaho Code.

## **TITLE 6 ACTIONS IN PARTICULAR CASES**

### **6-2401. LIABILITY FOR EMERGENCY RESPONSES.**

- (1) Any person who knowingly enters into any area that has been closed to the public by competent authority for any reason, where such closure is posted by sign, barricade or other device, is liable for the expenses of an emergency response required to search for or rescue such person or, if the person was operating a vehicle, any of his or her passengers, plus expenses for the removal of any inoperable vehicle. This section shall not apply to any person who is authorized by the land owner, lessor or manager of the closed area, to be in the closed area, and further shall have no application to any federal, state or local government official who is in the closed area as part of his or her official duty, nor to any person acting in concert with a government authorized search or rescue.
- (2) Unless otherwise provided by law, subsection (1) of this section shall apply only to persons eighteen (18) years of age or older and shall apply to all such persons irrespective of whether the person is on foot, on skis or snowshoes, or is operating a motor vehicle, bicycle, vessel, watercraft, raft, snowmobile, all-terrain vehicle, or any other boat or vehicle of any description.
- (3) Unless otherwise provided by law, subsection (1) of this section shall only apply to the person who knowingly enters the closed area, and not to his or her family, heirs or assigns.
- (4) Expenses of an emergency response are a charge against the person liable for those expenses pursuant to subsection (1) of this section. The charge constitutes a debt of that person and may be collected proportionately by the public agencies, for-profit entities and not-for-profit entities that incurred the expenses. The person's liability for expenses of an emergency response shall not exceed four thousand dollars (\$4,000) for a single incident. The liability imposed under this section is in addition to and not in limitation of any other liability that is imposed.
- (5) An insurance policy may exclude coverage for a person's liability for expenses of an emergency response under this section.
- (6) Any public agency or private entity that receives full reimbursement from the state search and rescue fund shall not attempt to collect any money from the person. In such cases, the debt described in subsection (4) of this section is collectable by the state of Idaho for reimbursement to the state search and rescue fund.
- (7) For purposes of this section:
- (a) "Expenses of an emergency response" means those reasonable and necessary costs directly incurred by public agencies, for-profit entities or not-for-profit entities that make an appropriate emergency response to an incident, and shall include the cost of providing police, firefighting, search and rescue, and emergency medical services at the scene of an incident and the salaries of the persons who respond to the incident.
- (b) "Public agency" means this state and any city, county, municipal corporation or other public authority that is located in whole or in part in this state and that provides police, firefighting, medical or other emergency services.

## **TITLE 9 EVIDENCE**

### **9-207. ADMISSIBILITY OF EXPRESSIONS OF APOLOGY, CONDOLENCE AND SYMPATHY.**

- (1) In any civil action brought by or on behalf of a patient who experiences an unanticipated outcome of medical care, or in any arbitration proceeding related to, or in lieu of, such civil action, all statements and affirmations, whether in writing or oral, and all gestures or conduct expressing apology, sympathy, commiseration, condolence, compassion, or a general sense of benevolence, including any accompanying explanation, made by a health care professional or an employee of a health care professional to a patient or family member or friend of a patient, which relate to the care

provided to the patient, or which relate to the discomfort, pain, suffering, injury, or death of the patient as the result of the unanticipated outcome of medical care shall be inadmissible as evidence for any reason including, but not limited to, as an admission of liability or as evidence of an admission against interest.

(2) A statement of fault which is otherwise admissible and is part of or in addition to a statement identified in subsection (1) of this section shall be admissible.

(3) For the purposes of this section, unless the context otherwise requires:

(a) "Health care professional" means any person licensed, certified, or registered by the state of Idaho to deliver health care and any clinic, hospital, nursing home, ambulatory surgical center or other place in which health care is provided. The term also includes any professional corporation or other professional entity comprised of such health care professionals as permitted by the laws of Idaho.

(b) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected, hoped for or desired result.

**9-340C. RECORDS EXEMPT FROM DISCLOSURE – PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE.** The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the purposes of lottery security and investigative action as determined by lottery rules unless the public interest in disclosure substantially outweighs the private need for protection from public disclosure.

(4) Records of a personal nature as follows:

(a) Records of personal debt filed with a public agency or independent public body corporate and politic pursuant to law;

(b) Personal bank records compiled by a public depositor for the purpose of public funds transactions conducted pursuant to law;

(c) Records of ownership of financial obligations and instruments of a public agency or independent public body corporate and politic, such as bonds, compiled by the public agency or independent public body corporate and politic pursuant to law;

(d) Records, with regard to the ownership of, or security interests in, registered public obligations;

(e) Vital statistics records; and

(f) Military records as described in and pursuant to section 65-301, Idaho Code.

(5) Information in an income or other tax return measured by items of income or sales, which is gathered by a public agency for the purpose of administering the tax, except such information to the extent disclosed in a written decision of the tax commission pursuant to a taxpayer protest of a deficiency determination by the tax commission, under the provisions of section 63-3045B, Idaho Code.

(6) Records of a personal nature related directly or indirectly to the application for and provision of statutory services rendered to persons applying for public care for the elderly, indigent, or mentally or physically handicapped, or



participation in an environmental or a public health study, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(7) Employment security information, except that a person may agree, through written, informed consent, to waive the exemption so that a third party may obtain information pertaining to the person, unless access to the information by the person is restricted by subsection (3)(a), (3)(b) or (3)(d) of section 9-342, Idaho Code. Notwithstanding the provisions of section 9-342, Idaho Code, a person may not review identifying information concerning an informant who reported to the department of labor a suspected violation by the person of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of confidentiality. As used in this section, "employment security information" means any information descriptive of an identifiable person or persons that is received by, recorded by, prepared by, furnished to or collected by the department of labor or the industrial commission in the administration of the employment security law.

(8) Any personal records, other than names, business addresses and business phone numbers, such as parentage, race, religion, sex, height, weight, tax identification and social security numbers, financial worth or medical condition submitted to any public agency or independent public body corporate and politic pursuant to a statutory requirement for licensing, certification, permit or bonding.

(9) Unless otherwise provided by agency rule, information obtained as part of an inquiry into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission or position, private association peer review committee records authorized in title 54, Idaho Code. Any agency which has records exempt from disclosure under the provisions of this subsection shall annually make available a statistical summary of the number and types of matters considered and their disposition.

(10) The records, findings, determinations and decisions of any prelitigation screening panel formed under chapters 10 and 23, title 6, Idaho Code.

(11) Complaints received by the board of medicine and investigations and informal proceedings, including informal proceedings of any committee of the board of medicine, pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

(12) Records of the department of health and welfare or a public health district that identify a person infected with a reportable disease.

(13) Records of hospital care, medical records, including prescriptions, drug orders, records or any other prescription information that specifically identifies an individual patient, prescription records maintained by the board of pharmacy under sections 37-2726 and 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling records relating to an individual's condition, diagnosis, care or treatment, provided the provisions of this subsection making records exempt from disclosure shall not apply to the extent that such records or information contained in those records are necessary for a background check on an individual that is required by federal law regulating the sale of firearms, guns or ammunition.

(14) Information collected pursuant to the directory of new hires act, chapter 16, title 72, Idaho Code.

(15) Personal information contained in motor vehicle and driver records that is exempt from disclosure under the provisions of chapter 2, title 49, Idaho Code.

(16) Records of the financial status of prisoners pursuant to subsection(2) of section 20-607, Idaho Code.

(17) Records of the Idaho state police or department of correction received or maintained pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

(18) Records of the department of health and welfare relating to a survey, resurvey or complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such records shall, however, be subject to disclosure as public records as soon as the facility in question has received the report, and no later than the fourteenth day following the date that department of health and welfare representatives officially exit the facility pursuant to federal regulations. Provided however, that for purposes of confidentiality, no record shall be released under this section which specifically identifies any nursing facility resident.

(19) Records and information contained in the registry of immunizations against childhood diseases maintained in the department of health and welfare, including information disseminated to others from the registry by the department of health and welfare.

(20) Records of the Idaho housing and finance association (IHFA) relating to the following:

- (a) Records containing personal financial, family, health or similar personal information submitted to or otherwise obtained by the IHFA;

- (b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and servicing mortgage loans and all records relating to the review, approval or rejection by the IHFA of said loans;
  - (c) Mortgage portfolio loan documents;
  - (d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.
- (21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.
- (22) Records of the Idaho state bar lawyer's assistance program pursuant to chapter 49, title 54, Idaho Code, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, Idaho Code.
- (23) Records and information contained in the trauma registry created by chapter 20, title 57, Idaho Code, together with any reports, analyses and compilations created from such information and records.
- (24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, Idaho Code.
- (25) The physical voter registration card on file in the county clerk's office; however, a redacted copy of said card shall be made available consistent with the requirements of this section. Information from the voter registration card maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon a showing that the voter comes within the provisions of subsection (30) of this section or upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.
- (26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.
- (27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:
- (a) If requested by a law enforcement agency, to the law enforcement agency; or
  - (b) If directed by a court order, to a person identified in order.
- (28) Except as otherwise provided by law relating to the release of information to a governmental entity or law enforcement agency, any personal information including, but not limited to, names, personal and business addresses and phone numbers, sex, height, weight, date of birth, social security and driver's license numbers, or any other identifying numbers and/or information related to any Idaho fish and game licenses, permits and tags unless written consent is obtained from the affected person.
- (29) Documents and records related to continuing education and recordkeeping violations that are maintained by the Idaho board of veterinary medicine under the provisions of section [54-2118\(1\)\(b\)](#), Idaho Code, provided the requirements set forth therein are met.
- (30) The Idaho residential street address and telephone number of an eligible law enforcement officer and such officer's residing household member(s) as provided for in [chapter 58, title 19](#), Idaho Code, except under the following circumstances:
- (a) If directed by a court order, to a person identified in the court order;
  - (b) If requested by a law enforcement agency, to the law enforcement agency;
  - (c) If requested by a financial institution or title company for business purposes, to the requesting financial institution or title company; or

- (d) If the law enforcement officer provides written permission for disclosure of such information.
- (31) Nothing in this section shall prohibit the release of information to the state controller as the state social security administrator as provided in section [59-1101A](#), Idaho Code.

## **TITLE 16 JUVENILE PROCEEDINGS**

### **16-1605. REPORTING OF ABUSE, ABANDONMENT OR NEGLECT.**

- (1) Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the department. The department shall be informed by law enforcement of any report made directly to it. When the attendance of a physician, resident, intern, nurse, day care worker, or social worker is pursuant to the performance of services as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall make the necessary reports.
- (2) For purposes of subsection (3) of this section the term "duly ordained minister of religion" means a person who has been ordained or set apart, in accordance with the ceremonial, ritual or discipline of a church or religious organization which has been established on the basis of a community of religious faith, belief, doctrines and practices, to hear confessions and confidential communications in accordance with the bona fide doctrines or discipline of that church or religious organization.
- (3) The notification requirements of subsection (1) of this section do not apply to a duly ordained minister of religion, with regard to any confession or confidential communication made to him in his ecclesiastical capacity in the course of discipline enjoined by the church to which he belongs if:
- (a) The church qualifies as tax-exempt under 26 U.S.C. section 501(c)(3);
  - (b) The confession or confidential communication was made directly to the duly ordained minister of religion; and
  - (c) The confession or confidential communication was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. A confession or confidential communication made under any other circumstances does not fall under this exemption.
- (4) Failure to report as required in this section shall be a misdemeanor.

### **16-2411. EMERGENCY MENTAL HEALTH RESPONSE AND EVALUATION – TEMPORARY DETENTION BY A PEACE OFFICER.**

- (1) A peace officer may take a child into protective custody and immediately transport the child to a treatment facility for emergency mental health evaluation in the absence of a court order if and only if the officer determines that an emergency situation exists as defined in this chapter, and the officer has probable cause to believe, based on personal observation and investigation, representation of the child's parents or the recommendation of a mental health professional, that the child is suffering from serious emotional disturbance as a result of which he is likely to cause harm to himself or others or is manifestly unable to preserve his health or safety with the supports and assistance available to him and that immediate detention and treatment is necessary to prevent harm to the child or others.
- (2) The officer shall immediately transport any child taken into protective custody under this section, to a treatment facility or mental health program, such as a regional mental health center, a mobile crisis intervention program, or a therapeutic foster care facility, provided such center's program or facility has been approved by the regional office of the department for that purpose. The department shall make a list of approved facilities available to law enforcement agencies.
- (3) Upon taking the child into protective custody, the officer shall take reasonable precautions to safeguard and preserve the personal property of the person unless a parent or guardian or responsible relative is able to do so. Upon presenting a child to a treatment facility the officer shall inform the staff in writing of the facts that caused him to detain the person, and shall specifically state whether the person is otherwise subject to being held for juvenile or criminal offenses.
- (4) If the child who is being detained is not released to the child's parent, guardian or custodian, the law enforcement agency shall contact the child's parent, guardian or custodian as soon as possible, and in no case later than twenty-four

(24) hours, and shall notify the child's parent, guardian or custodian of his status, location and the reasons for the detention of the child. If the parents cannot be located or contacted, efforts to comply with this section and the reasons for failure to make contact shall be documented in the child's record.

## **TITLE 18 CRIMES AND PUNISHMENTS**

### **18-915. ASSAULT OR BATTERY UPON CERTAIN PERSONNEL -- PUNISHMENT.**

(1) Any person who commits a crime provided for in this chapter against or upon a justice, judge, magistrate, prosecuting attorney, public defender, peace officer, bailiff, marshal, sheriff, police officer, peace officer standards and training employee involved in peace officer decertification activities, emergency services dispatcher, correctional officer, employee of the department of correction, employee of a private prison contractor while employed at a private correctional facility in the state of Idaho, employees of the department of water resources authorized to enforce the provisions of [chapter 38, title 42](#), Idaho Code, jailer, parole officer, misdemeanor probation officer, officer of the Idaho state police, fireman, social caseworkers or social work specialists of the department of health and welfare, employee of a state secure confinement facility for juveniles, employee of a juvenile detention facility, a teacher at a detention facility or a juvenile probation officer, emergency medical services personnel licensed under the provisions of [chapter 10, title 56](#), Idaho Code, a member, employee or agent of the state tax commission, United States marshal, or federally commissioned law enforcement officer or their deputies or agents and the perpetrator knows or has reason to know of the victim's status, the punishment shall be as follows:

(a) For committing battery with intent to commit a serious felony the punishment shall be imprisonment in the state prison not to exceed twenty-five (25) years.

(b) For committing any other crime in this chapter the punishment shall be doubled that provided in the respective section, except as provided in subsections (2) and (3) of this section.

(2) For committing a violation of the provisions of section 18-901 or 18-903, Idaho Code, against the person of a former or present justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or of a county jail, or of a private correctional facility, or of an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility, misdemeanor probation officer or a juvenile probation officer:

(a) Because of the exercise of official duties or because of the victim's former or present official status, or

(b) While the victim is engaged in the performance of his duties and the person committing the offense knows or reasonably should know that such victim is a justice, judge or magistrate, jailer or correctional officer or other staff of the department of correction, or of a private correctional facility, an employee of a state secure confinement facility for juveniles, an employee of a juvenile detention facility, a teacher at a detention facility, misdemeanor probation officer or a juvenile probation officer;

the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

(3) For committing a violation of the provisions of section 18-903, Idaho Code, except unlawful touching as described in section 18-903(b), Idaho Code, against the person of a former or present peace officer, sheriff or police officer:

(a) Because of the exercise of official duty or because of the victim's former or present official status, or

(b) While the victim is engaged in the performance of his duties and the person committing the offense knows or reasonably should know that such victim is a peace officer, sheriff or police officer;

the offense shall be a felony punishable by imprisonment in a correctional facility for a period of not more than five (5) years, and said sentence shall be served consecutively to any sentence being currently served.

### **18-6810. INTENTIONAL DESTRUCTION OF A TELECOMMUNICATION LINE OR TELECOMMUNICATION INSTRUMENT.**

(1) Any person who intentionally takes down, removes, injures or obstructs in any manner any telecommunication line or, any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof or who intentionally takes, withholds, takes down, removes, injures or obstructs any telephone instrument or other instrument that is used or could be used to facilitate the transmission of messages, signals, facsimiles, video images or other communication by means of telephone, telegraph, cable, wire or the projection of energy or waves without physical connection (such as wireless or cellular), with the intent to prohibit, disrupt, inhibit, delay, disconnect or otherwise interfere with a person's ability to make contact with or otherwise communicate with an emergency service provider is

guilty of a misdemeanor and shall be punished by a fine of up to one thousand dollars (\$1,000) or by imprisonment in the county jail for up to one (1) year, or both.

(2) For purposes of this statute, a "telecommunication line" shall be defined as any line used or that could be used for the transmission of any type of message or information, regardless of form or content.

(3) For purposes of this statute, an "emergency service provider" includes law enforcement, emergency medical service providers (including, but not limited to, ambulance, EMS, or paramedic service providers), fire suppression service providers, dispatch centers, dispatch personnel, and any person, entity, or security business (including private business) that has the authority to dispatch such service providers or that otherwise makes available the service of requesting a response, or providing notification of the need for a response, by any of the foregoing emergency service providers. The term "emergency service provider" shall also include any personnel, service or entity that can be contacted, either directly or indirectly, by dialing "911."

## **TITLE 19 CRIMINAL PROCEDURES**

### **19-4301A.DEATHS TO BE REPORTED TO LAW ENFORCEMENT OFFICIALS AND CORONER.**

(1) Where any death occurs which would be subject to investigation by the coroner under section 19-4301(1), Idaho Code, the person who finds or has custody of the body shall promptly notify either the coroner, who shall notify the appropriate law enforcement agency, or a law enforcement officer or agency, which shall notify the coroner. Pending arrival of a law enforcement officer, the person finding or having custody of the body shall take reasonable precautions to preserve the body and body fluids and the scene of the event shall not be disturbed by anyone until authorization is given by the law enforcement officer conducting the investigation.

(2) Except as otherwise provided in subsection (3) of this section, any person who fails to notify the coroner or law enforcement pursuant to subsection (1) of this section shall be guilty of a misdemeanor and shall be punished by up to one (1) year in the county jail or by a fine not to exceed one thousand dollars (\$1,000), or by both such imprisonment and fine.

(3) Any person who, with the intent to prevent discovery of the manner of death, fails to notify or delays notification to the coroner or law enforcement pursuant to subsection (1) of this section, shall be guilty of a felony and shall be punished by imprisonment in the state prison for a term not to exceed ten (10) years or by a fine not to exceed fifty thousand dollars (\$50,000) or by both such fine and imprisonment.

## **TITLE 31 COUNTIES AND COUNTY LAW**

**31-1401. PURPOSE AND POLICY OF LAW -- SHORT TITLE.** The protection of property against fire and the preservation of life, and enforcement of any of the fire codes and other rules that are adopted by the state fire marshal pursuant to chapter 2, title 41, Idaho Code, are hereby declared to be a public benefit, use and purpose. Any portion of a county not included in any other fire protection district may be organized into a fire protection district under the provisions of this chapter. All taxable property within any fire protection district created under the provisions of this chapter is and shall be benefited ratably in proportion to assessed valuation by the creation and maintenance of such district, and all taxable property within any such district shall be assessed equally in proportion to its assessed valuation for the purpose of and in accordance with the provisions of this chapter. This chapter shall be known as the "Fire Protection District Law," and whenever cited, enumerated, referred to or amended, may be designated as the "Fire Protection District Law," adding when necessary the code section number.

### **31-1403. PETITION.**

(1) A petition shall first be presented to the board of county commissioners and filed with the clerk of the board of commissioners of each county in which the proposed fire protection district is to be situated, signed by the number of holders of title, or evidence of title specified in section 31-1402, Idaho Code, which petition shall plainly and clearly designate the boundaries of the proposed fire protection district, and shall state the name of the proposed district, and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith shall, at all proper hours, be open to public inspection in the office of said clerk of the board of commissioners between the date of their said filing and the date of the election. The petition may be in one (1) paper or in several papers.

(2) Whenever a petition shall be filed, prior to the publication of notice of hearing pursuant to section 31-1404, Idaho Code, the petitioners shall deposit with the board of county commissioners a sum sufficient to defray the costs of publishing and election as provided by this chapter. In the event a fire protection district is organized, the petitioners

shall be reimbursed the amount of their deposit from the first tax moneys collected by the district as provided by this chapter. The amount required to be paid under this subsection shall be determined by the board of county commissioners.

**31-1405. NOTICE OF ELECTION.** After the county commissioners have made their order finally fixing and determining the boundaries of the proposed district, the clerk of the board of county commissioners shall cause to be published a notice of an election to be held, subject to the provisions of section 34-106, Idaho Code, in such proposed fire protection district for the purpose of determining whether or not the same shall be organized under the provisions of this chapter. Such notice shall plainly and clearly designate the boundaries of such proposed fire protection district, and shall state the name of the proposed district as designated in the petition and shall state that a map showing the boundaries of said district is on file in his office.

Such notice shall be published first not less than fifteen (15) days prior to the election, and a second publication not less than five (5) days prior to such election, in a newspaper published within the county aforesaid. Such notice shall require the electors to cast ballots which shall contain the words ".... fire protection district, yes," or ".... fire protection district, no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter unless he shall possess all the qualifications required of electors under the general laws of the state, and be a resident of the proposed district.

If the district is to be situated in two (2) or more counties, the boards of county commissioners shall provide that the election be held on the same day in each county.

**31-1408. FIRE PROTECTION BOARD -- APPOINTMENT OF COMMISSIONERS -- OATH.**

(1) There shall be three (3) fire protection commissioners in each district, who shall constitute the fire protection board. The first fire protection commissioners of such fire protection district shall be appointed by the governor. The certificate of such appointment shall be made in triplicate; one (1) certificate shall be filed in the office of the county recorder of the county; one (1) with the clerk of the board of county commissioners, and one (1) with the assessor and tax collector of the county. Every fire protection commissioner and appointed officer shall take and subscribe the official oath, which oath shall be filed in the office of the board of fire protection commissioners. If thirty-three percent (33%) of the property and/or population in the fire protection district is situated in two (2) or more counties, not more than two (2) of the fire protection district commissioners shall be from the same county, unless pursuant to section [31-1410A](#), Idaho Code, the board is comprised of five (5) members, in which event not more than three (3) of the commissioners shall be from the same county.

(2) The oath of office of fire protection commissioners and appointed officers shall be taken before the secretary or the president of the board of the fire district at the first regularly scheduled board meeting in January succeeding each election. Provided however, in the event of an inability to appear for the taking of the oath, a duly elected fire protection commissioner may be sworn in and may subscribe to the oath wherever he may be, provided he appear before an officer duly authorized to administer oaths, and provided further, that any person who is in any branch of the armed forces of the United States of America, may appear before any person qualified to administer oaths as prescribed in section [55-705](#), Idaho Code, and may take and subscribe the oath of office as provided for in section [59-401](#), Idaho Code, and the oath of office shall have the same force and effect as though it were taken before the secretary or the president of the fire district pursuant to this subsection.

**31-1409. RESIDENCE QUALIFICATIONS OF COMMISSIONERS -- TERM OF OFFICE -- VACANCIES.**

(1) At the meeting of the board of county commissioners at which the fire protection district is declared organized, as provided by section 31-1407, Idaho Code, the county commissioners shall divide the fire protection district into three (3) subdivisions, as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Not more than one (1) of said commissioners shall be an elector of the same fire protection subdistrict. The first commissioners appointed by the governor shall serve until the next fire protection district election, at which their successors shall be elected. The term of office for fire protection commissioners shall commence on the second Monday of January succeeding each general election. Commissioners appointed and elected must be electors resident within the district for at least one (1) year.

(2) Any fire protection commissioner vacancy occurring, other than by the expiration of the term of office, shall be filled by the fire protection board. If a duly elected or appointed fire protection commissioner resigns, withdraws, becomes disqualified, refuses or becomes otherwise unable to perform the duties of office for longer than ninety (90) days, the board, on satisfactory proof of the vacancy, shall declare the office vacant. The board shall fill any vacancies within sixty (60) days of learning of the vacancy. When a vacancy occurs, the board shall direct the secretary to cause



a notice of the vacancy to be published in at least one (1) issue of a newspaper of general circulation within the district. The notice shall include the date and time of the meeting when the board will vote to fill the vacancy, and the deadline for qualified elector residents interested in being appointed to the position to submit a written request for appointment to the board. Should the board fail to agree on an individual to fill the vacancy, it shall select the individual by a coin toss to be conducted at a fire protection board meeting. Candidates for the vacancy shall be invited by the board to attend the meeting and observe the coin toss. The candidate who wins the coin toss shall be appointed to fill the vacancy.

### **31-1410. ELECTION OF COMMISSIONERS.**

(1) On the first Tuesday following the first Monday of November, following the organization of a fire protection district, three (3) fire protection district commissioners shall be elected. Every year thereafter, one (1) commissioner shall be elected, except for the fourth year when no election of a fire commissioner shall occur unless a fire protection district has voted to increase the size of its board in accordance with section [31-1410A](#), Idaho Code. The board of fire protection commissioners shall have power to make such regulations for the conduct of such election as are consistent with the statutory provisions of [chapter 14, title 34](#), Idaho Code. At their meeting next preceding such election, the board of fire protection commissioners shall divide the district into three (3) subdistricts as nearly equal in population, area and mileage as practicable, to be known as fire protection commissioners subdistricts one, two and three. Thereafter, at the January meeting of the board of fire protection commissioners preceding any regularly scheduled election, such subdistricts may be revised by the board when it deems it necessary due to significant shifts in population. Provided however, of the commissioners comprising the board, not more than one (1) commissioner shall be an elector of the same fire protection commissioners subdistrict. The revision of subdistricts shall not disqualify any elected commissioner from the completion of the term for which he or she has been duly elected. At the first election following organization of a fire protection district the commissioner from fire protection subdistrict one shall be elected to a term of one (1) year, the commissioner from subdistrict two shall be elected to a term of two (2) years, and the commissioner from fire protection subdistrict three shall be elected to a term of three (3) years; thereafter the term of office of all commissioners shall be four (4) years. Such elections and all other elections held under this law, shall be held in conformity with the general laws of the state including [chapter 14, title 34](#), Idaho Code.

(2) Upon the unanimous agreement of the existing board of commissioners, a fire protection district whose terms and elections were established by prior law may elect to convert to the election of commissioners as provided in subsection (1) of this section. A fire district may adopt any conversion schedule reflecting the intent of the schedule provided in subsection (1) of this section, so long as one (1) commissioner is elected each year, except for the fourth year when no election shall be held. The conversion schedule shall not result in the extension of the term of office of any commissioner serving at the time of the conversion.

(3) In any election for fire protection district commissioner, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a subdistrict to be filled, it shall not be necessary for the candidate of that subdistrict to stand for election, and the board of the fire protection district shall declare such candidate elected as commissioner, and the secretary of the district shall immediately make and deliver to such person a certificate of election.

The results of any election for fire protection district commissioner shall be certified by the county clerk of the county or counties of the district and the results reported to the district.

**31-1410A. DECISION TO INCREASE THE SIZE OF THE BOARD.** Subsequent to the creation of a fire protection district and the appointment of the first board of fire protection commissioners, the fire protection board may, by a majority vote of all of the fire protection district board members elect to increase the size of the board to five (5) members.

If the board of fire protection commissioners elects to expand the board to five (5) members, the existing board members shall subdivide the district into five (5) subdivisions as nearly equal in population, area and mileage as practicable to be known as subdistricts one, two, three, four and five.

At the first election following the decision of the board of fire protection commissioners to expand the board from three (3) to five (5) members, five (5) commissioners shall be elected. The commissioners from fire protection subdistricts one and two shall be elected to a term of two (2) years, the commissioners from subdistricts three, four and five shall be elected to a term of four (4) years. Thereafter, the term of all commissioners shall be four (4) years.

A fire district which, prior to the effective date of this section, had elected to expand a board from three (3) to five (5) members shall, prior to the next election of the district, adopt a transition schedule as nearly reflecting the schedule provided

in this section as possible[.] For commissioners whose offices expire in 2012 and in any even-numbered year, such commissioners shall remain in office until the next election in an odd-numbered year.

**31-1411. ANNEXATION OF TERRITORY IN SAME COUNTY -- PETITION -- HEARING -- ORDER -- CERTIFICATION TO COUNTY COMMISSIONERS -- ALTERNATE PROCEDURE -- ELECTION -- PETITION TO DE ANNEX PROPERTY FROM EXISTING DISTRICT AND ANNEX INTO ANOTHER DISTRICT.** After the organization of a fire protection district, additional contiguous or noncontiguous territory lying within the same county may be added thereto and shall thereupon and thenceforth be included in such district. Territory that is not contained in an existing fire district, and is not immediately adjoining the boundaries of the fire district into which annexation is sought, may be annexed into the district provided the territory consists of not less than forty (40) contiguous acres. At least seventy-five percent (75%) or more of the owners or contract purchasers of the land sought to be annexed shall petition the fire protection board and request annexation of the territory particularly described in said petition. Upon receipt of any such petition the fire protection board shall hold a hearing not less than ten (10) nor more than thirty (30) days thereafter, or upon the written consent of the petitioner within one hundred eighty (180) days, and said board shall cause notice of such hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district. Any person supporting or objecting to such petition shall be heard at such hearing, if in attendance, and at the close of such hearing said board shall approve or reject said petition. If the board approves said petition it shall make an order to that effect and certify a copy of said order containing an accurate legal description of the annexed territory to the board of county commissioners of the county where said fire district is situated. Said board of county commissioners shall thereupon enter an order of annexation and cause the same to be recorded so as to include the annexed property on the tax rolls as in this chapter provided.

In the event that more than twenty-five percent (25%) of the owners or contract purchasers of the land sought to be annexed do not join in said petition, and the board determines by resolution entered on the minutes of the board, that the annexation would be in the best interests of the district and that an election on the issue should be held, additional territory may nevertheless be annexed by the affirmative vote of a majority of the qualified electors of such additional territory voting on the question at an election held therefor, which vote may be taken at an election held as provided in section 31-1405, Idaho Code. The same procedure shall be adopted as provided in sections 31-1402 through 31-1406, Idaho Code.

If owners or contract purchasers of territory located within an existing fire protection district seek to petition to be annexed into another fire protection district, they must demonstrate that they are likely to receive an improved response to requests for services from the other fire protection district and obtain written approval of the board of the fire protection district within which the territory is already located. The written approval must be attached to their petition to annex. The procedure for the annexation petition shall be the same as otherwise provided in this section.

**31-1412. ANNEXATION OF TERRITORY IN ADJOINING COUNTY.** After the organization of a fire protection district, additional territory, contiguous or noncontiguous thereto and located wholly within an adjoining county, may be added to the district and become a part thereof as hereinafter provided in this section. Noncontiguous territory annexed to an existing fire protection district shall consist of not less than forty (40) contiguous acres. The proceedings for annexation shall be the same as the proceedings for the creation and organization of a fire protection district with the following exceptions and modifications:

- (1) Such proceeding may be initiated by:
  - (a) Two (2) or more of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres; or
  - (b) One hundred percent (100%) of the holders of title or evidence of title to lands aggregating not less than one hundred (100) acres.
- (2) A petition, such as is required by section [31-1403](#), Idaho Code, shall be filed with the fire protection board of the fire protection district into which petitioners seek to be annexed. The petition shall accurately describe the boundaries of the territory and name and describe the fire protection district to which annexation is sought. The petition shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. An election is not required pursuant to subsection (5) of this section when the petition includes a certification as to the following: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property proposed to be annexed. The fire protection board shall follow the notice and public hearing requirements contained in section [31-1411](#), Idaho Code, and if it approves of the annexation proposal, it will issue a written resolution consenting to the



proposed annexation. If the fire protection board issues such a resolution, the petitioners shall proceed in accordance with the steps outlined in this section.

(3) A petition, such as is required by section [31-1403](#), Idaho Code, shall be filed with the board of county commissioners of the county in which is situated the territory proposed to be annexed but shall accurately describe the boundaries of the territory, and name and describe the fire protection district to which annexation is sought, shall be accompanied by a map showing and distinguishing the boundaries of the original district and the boundaries of the territory proposed to be annexed, and showing the location of the intervening county line. An election is not required pursuant to subsection (5) of this section when the petition includes a certification as to the following: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property proposed to be annexed. The petition must be accompanied by a certified copy of the resolution of the board of fire protection commissioners consenting to the annexation.

(4) The notice of hearing on the petition shall state that certain territory described in the petition, is proposed to be annexed to a fire protection district named in the petition and that any taxpayer within the boundaries of the territory proposed to be annexed may offer objections at the time and place specified. The order entered by the local board of county commissioners on the petition shall, if the petition be granted, fix the boundaries of the annexed territory and direct that a map of it be prepared under the direction of the clerk of the board, and certified copies of the order and map shall be transmitted to the clerk of the board of county commissioners of the county in which the original fire protection district is situated.

(5) An election shall be conducted by the county clerk or elections office in the county where the land sought to be annexed is situated, subject to the provisions of section [34-106](#), Idaho Code, in the territory proposed to be annexed for the purpose of voting upon the annexation and the notice shall accurately describe the boundaries of the territory proposed to be annexed, shall state the name of the district to which annexation is sought, and that a map showing the boundaries of the district and of the territory proposed to be annexed is on file in the office of the clerk of the local board of county commissioners. The notice shall prescribe the form of ballot to be cast, which shall contain the words "In favor of annexation to .... Fire Protection District" and "Against annexation to .... Fire Protection District," and shall direct that the voter indicate his choice thereon by a cross (X). An election pursuant to the provisions of this subsection shall accomplish no purpose and, therefore, shall not be required if the following conditions are certified in the petition(s) submitted in accordance with subsections (2) and (3) of this section: (a) that one hundred percent (100%) of the holders of title or evidence of title of the property proposed to be annexed have joined in the initial petition requesting annexation; and (b) that there is no electorate present in the property sought to be annexed.

(6) The territory proposed to be annexed shall constitute one (1) election precinct and there shall be added to the usual elector's oath, in case of challenge, the following words: "And I am a resident within the boundaries of the territory proposed to be annexed to .... Fire Protection District." The returns of the election shall be canvassed by the board of the county commissioners of the county in which the territory proposed to be annexed is situated, and if it shall appear from the canvass that more than one-half (1/2) of the voters are in favor of the annexation, the board shall, by order entered on its minutes, declare the territory a part of the fire protection district to which annexation is sought, and a certified copy of the order shall be transmitted to the fire protection board of the original district, and also to the board of the county commissioners of the county in which the original district is situated. A certified copy of the order shall also be filed in the office of the county recorder of the county in which the territory proposed to be annexed is situated. At the first meeting of the board of fire protection commissioners following the annexation of property from another county, the board shall resubdivide the expanded fire protection district into three (3) subdivisions, as nearly equal in population and area as practicable. Not more than one (1) fire protection district commissioner shall reside in each subdistrict. If, because of resubdistricting, two (2) or more commissioners reside in the same subdistrict, they shall draw lots to determine who shall remain in office. The remaining commissioners on the board shall appoint, as necessary, persons to fill vacancies created as a result of annexation pursuant to the provisions of section 31-1409, Idaho Code. An appointee shall serve the remainder of the term of office he or she is appointed to fill. Certified copies of appointments of secretary and treasurer of the district shall be filed with the clerk of the board of county commissioners and with the tax collector of each county in which any portion of the district is situated and all taxes levied by the district shall be certified to, and extended, collected and remitted by, the proper officers of the county in which is situated the property subject to the levy.

**31-1413. CONSOLIDATION OF DISTRICTS -- HEARING -- PROTEST-- ELECTION.** Any fire protection district may consolidate with one (1) or more existing fire protection districts subject to the following procedure, or pursuant to an election for consolidation as provided in section 31-1414, Idaho Code, and with the following effects:

(1) If, in the opinion of the board of any fire protection district, it would be to the advantage of said district to consolidate with one (1) or more other existing fire protection districts, the said board shall cause to be prepared an agreement for consolidation which shall among other things provide:

- (a) The name of the proposed consolidated fire protection district.
- (b) That all property of the districts to be consolidated shall become the property of the consolidated district.
- (c) That all debts of the districts to be consolidated shall become the debts of the consolidated district.
- (d) That the existing commissioners of the districts to be consolidated shall be the commissioners of the consolidated district until the next election, said election to be held pursuant to the terms of section 31-1410, Idaho Code, at which three (3) commissioners shall be elected, unless the agreement of consolidation establishes a five (5) member board, in which case five (5) commissioners shall be elected. If the board consists of three (3) members, commissioners from fire protection subdistricts one and two shall be elected for terms of four (4) years, and the commissioner from fire protection subdistrict three shall be elected for a term of two (2) years. If the board consists of five (5) commissioners, commissioners from fire protection subdistricts one, three and five shall be elected for terms of four (4) years, and the commissioners from fire protection subdistricts two and four shall be elected for an initial term of two (2) years. Thereafter the term of all commissioners shall be four (4) years. (e) That the employees of the consolidated fire protection district shall be selected from the employees of the fire protection districts being consolidated, which employees shall retain the seniority rights under their existing employment contracts.

(2) After approval of the agreement of consolidation by each of the fire protection district boards involved, the boards of commissioners of each fire protection district shall hold a hearing not less than ten (10) or more than thirty (30) days thereafter, and shall cause notice of the hearing, designating the time and place, to be published in at least one (1) issue of a newspaper of general circulation within the district not less than five (5) days prior to the hearing. Any person supporting or objecting to the petition shall be heard at the hearing, if in attendance, and at the close of the hearing the board shall approve or reject the agreement of consolidation. If each board approves the agreement of consolidation, the agreement shall become effective and the consolidation of the district complete thirty (30) days after the approval unless within the thirty (30) days a petition signed by twenty-five percent (25%) of the qualified electors of one (1) of the fire protection districts objecting to the consolidation be filed with the secretary of the district. In the event of an objection, election shall be held as provided in section 31-1405, Idaho Code, except that the question shall be "consolidation of .... fire protection district, yes," or "consolidation of fire protection district, no," or words equivalent thereto. If more than one-half (1/2) of the votes cast are yes, the agreement shall become effective. If more than one-half (1/2) of the votes cast are no, the agreement shall be void and of no effect; and no new consolidation shall be proposed for at least six (6) months following the date of the consolidation election.

(3) Upon the agreement of consolidation becoming effective, the board of the consolidated fire protection district shall file a certified copy of the agreement with the county recorder of each county in which such district is situated, and shall comply with the provisions of section 63-215, Idaho Code. The consolidated district shall thereafter have the same rights and obligations as any other fire protection district organized under the statutes of this state.

**31-1414. ELECTION FOR THE CONSOLIDATION OF DISTRICTS.**

(1) Any two (2) or more fire districts may, in the discretion of the fire district commissioners, or shall, upon a petition signed by ten percent (10%) or more of the electors in the last general election residing in each of the fire protection districts proposed for consolidation, conduct an election in the manner provided in section 31-1405, Idaho Code, at which the following question shall be submitted to the electorate: "Shall ..... fire protection districts be consolidated?" or words equivalent thereto. At least one (1) public hearing shall be held by the boards of fire district commissioners prior to the election. If a majority of the votes cast in each district proposed for consolidation are in favor of consolidation, the districts shall be deemed consolidated and an agreement of consolidation in conformity with the provisions of section 31-1413, Idaho Code, shall be entered into by the fire protection district boards involved, except that an agreement of consolidation entered into pursuant to an election as provided in this section shall not thereafter be subject to an election upon objection as provided in subsection (2) of section 31-1413, Idaho Code.

(2) If two (2) districts are proposed for consolidation and less than a majority of the votes cast in any one (1) of the districts are in favor of the consolidation, the consolidation shall not become effective. If more than two (2) districts are proposed for consolidation, the consolidation may proceed with respect to those districts in which a majority of the votes cast are in favor of the consolidation.

### **31-1415. ORGANIZATION OF BOARD -- MEETINGS -- OFFICERS -- OFFICIAL BONDS.**

Immediately after qualifying, the board of fire protection commissioners shall meet and organize as a board, and at that time, and whenever thereafter vacancies in the respective offices may occur, they shall elect a president from their number, and shall appoint a secretary and treasurer who may also be from their number, all of whom shall hold office during the pleasure of the board, or for terms fixed by the board. The offices of secretary and treasurer may be filled by the same person. Certified copies of all such appointments, under the hand of each of the commissioners, shall be forthwith filed with the clerk of the board of county commissioners and with the tax collector of the county.

As soon as practicable after the organization of the first board of fire protection commissioners, and thereafter when deemed expedient or necessary, such board shall designate a day and hour on which regular meetings shall be held and a place for the holding thereof, which shall be within the district. Regular meetings shall be held at least quarterly. The minutes of all meetings must show what bills are submitted, considered, allowed or rejected. The secretary shall make a list of all bills presented, showing to whom payable, for what service or material, when and where used, amount claimed, allowed or disallowed. Such list shall be acted on by the board. All meetings of the board must be public, and a majority shall constitute a quorum for the transaction of business. All fire protection districts shall meet the financial audit filing requirements as provided in section 67-450B, Idaho Code. All meetings of fire protection boards shall be noticed and run in accordance with the open meeting law provided for in sections 67-2340 through 67-2347, Idaho Code, inclusive. All records of fire protection districts shall be available to the public in accordance with the provisions of public records law as provided for in chapter 3, title 9, Idaho Code.

The officers of the district shall take and file with the secretary, an oath for faithful performance of the duties of the respective offices. The treasurer shall on his appointment execute and file with the secretary an official bond in compliance with section 41-2604, Idaho Code, in such an amount as may be fixed by the fire protection board but in no case less than ten thousand dollars (\$10,000).

**31-1416. FIRE PROTECTION DISTRICTS ARE GOVERNMENTAL SUBDIVISIONS OF IDAHO AND BODIES POLITIC AND CORPORATE.** Every fire protection district upon being organized as provided by this chapter shall be a governmental subdivision of the state of Idaho and a body politic and corporate, and as such has the power specified in this chapter. Its powers can be exercised only by the fire protection board or by agents and officers acting under their authority, or authority of law. The name of the district designated in the order of the board of county commissioners declaring the territory duly organized as a fire protection district, shall be the corporate name of such district, and it must be known and designated thereby in all actions and proceedings touching its corporate right, property and duties.

**31-1417. CORPORATE POWERS AND DUTIES OF BOARD OF FIRE PROTECTION COMMISSIONERS.** A board of fire protection commissioners shall have discretionary powers to manage and conduct the business and affairs of the district. The discretionary powers shall include, but not be limited to, the following:

- (1) To sue and be sued.
- (2) To purchase, hold, sell and convey real property, make such contracts, and purchase, hold, sell and dispose of such personal property as may be necessary or convenient for the purposes of this chapter.
- (3) To levy and apply such taxes for purposes under its exclusive jurisdiction as are authorized by law, and to approve the annual district budget by resolution of the board.
- (4) To make and execute all necessary contracts.
- (5) To adopt such rules and resolutions as may be necessary to carry out their duties and responsibilities.
- (6) To hire, pay, promote, discipline and terminate district employees, contractors and agents, or delegate such powers.
- (7) To set compensation and benefit levels for employees, commissioners, contractors and agents.
- (8) To appoint members of district appeals boards and investigatory boards for the purpose of handling personnel matters or disputes concerning fire code enforcement issues, and to appoint other boards or committees that commissioners deem necessary for carrying out the purposes and policies of this chapter.
- (9) To enforce the fire code and rules adopted by the state fire marshal pursuant to chapter 2, title 41, Idaho Code.
- (10) To charge and collect reasonable fees for services provided to residents of the fire protection district or city, in accordance with the provisions of sections 63-1311 and 63-1311A, Idaho Code.

**31-1418. TEMPORARY INABILITY OF COMMISSIONER.** Whenever, for any reason, any member of the board of fire protection district commissioners submits to the board a signed written notice stating that the commissioner is temporarily unable to perform the duties of the office for a period of at least ninety (90) days, the other members of the board

shall appoint a suitable person to perform such duties temporarily as an acting officer as provided herein, until the incumbent of the office shall be able to resume the performance of his duties, or a vacancy occurs in such office.

Each member of the board of a fire protection district shall designate two (2) temporary interim successors to his powers and duties and specify their order of succession. Each member shall review and, as necessary, revise the designations of temporary interim successors so there are always two (2) qualified temporary interim successors. The designation of a temporary interim successor shall become effective when the member making the designation files with the secretary of the board of the fire protection district the name, address and rank of the successors in order of succession.

When a member of the board of fire protection district commissioners is temporarily unable to perform the duties of office, the other members of the board shall appoint a temporary interim successor highest in order of succession who is available. The interim successor, except for the power and duty to appoint temporary interim successors, shall exercise the power and assume the duties of the member of the board of fire protection district commissioners. No person shall be designated or serve as a temporary interim successor unless he is qualified to hold the office of a member of the board of fire protection district commissioners, to whose powers and duties he is designated to succeed under the constitution and laws of the state of Idaho. The order of appointment of a temporary interim successor shall be recorded in the official proceedings of the board.

**31-1419. FIRE PROTECTION DISTRICT HAS LEGAL TITLE TO PROPERTY.** The legal title to all property acquired under the provisions of this chapter shall immediately and by operation of law, vest in such fire protection district, and shall be held by such district in trust for and is hereby dedicated and set apart to the uses and purposes set forth in this chapter. Said board is hereby authorized and empowered to hold, use, acquire, manage, occupy, possess, sell, convey and dispose of said property, whether real or personal, as in this chapter provided; and to institute and maintain any and all actions and proceedings, suits at law or in equity necessary or proper in order to fully carry out the provisions of this chapter, or to enforce, maintain, protect or preserve any and all rights, privileges and immunities created by this chapter or acquired in pursuance thereof. In all courts, actions, suits or proceedings, the said board may sue, appear and defend, in person or by attorneys, and in the name of such fire protection district.

**31-1420. PROCEDURE FOR SALE, CONVEYANCE AND DISPOSITION OF PROPERTY.** Real or personal property of a fire protection district may be sold, conveyed, and disposed of by its board of commissioners whenever the board finds and by resolution declares that the district no longer has use therefor, subject to the following procedure:

- (1) If in the opinion of the board, any such personal property does not exceed ten thousand dollars (\$10,000) in value, the same may be sold without independent appraisal, notice, or competitive bids.
- (2) All such real property, and any such personal property that the board determines to exceed ten thousand dollars (\$10,000) in value, shall be appraised by a certified appraiser who shall be selected by the board. It may then be sold at public or private sale to the highest bidder for cash at not less than its appraised value, after due notice. If the property cannot be sold for the appraised value after reasonable efforts have been made, the board may then sell the property for adequate and valuable consideration as determined by the board.
- (3) Due notice of sale shall be accomplished if the notice shall describe the property to be sold (legal description, if real property), state the appraised value thereof (by separate items, if so appraised), and specify the time, place, and conditions of sale.
- (4) Said notice shall be published in a newspaper having general circulation in the district at least twice, the first publication thereof to be not less than fifteen (15) days preceding the day of sale.
- (5) If such property is sold on terms, the board may contract for the sale of the same for a period of years not exceeding ten (10) years, with an annual rate of interest on all deferred payments not to exceed twelve percent (12%) per annum. The title to all property sold on contract shall be retained in the name of the district until full payment has been made by the purchaser. Any property sold by the board under the provisions of this section, either for cash or on contract, shall be assessed by the county assessor in the same manner and upon the same basis of valuation as though the purchaser held a record title to the property so sold. The board shall have authority to cancel any contract of sale, pursuant to law, if the purchaser shall fail to comply with any of the terms of such contract, and retain all payments paid thereon. The board may by agreement with the purchaser modify or extend any of the terms of any contracts of sale, but the total period of years shall not exceed ten (10) years.
- (6) Upon final payment pursuant to the sale of such real property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate deed to the purchaser, and upon the accomplishment of the sale of such personal property, the president and secretary, pursuant to resolution of the board, shall duly execute and deliver an appropriate bill of sale to the purchaser.

(7) In addition to any other powers granted by law, the board of fire commissioners may, at their discretion, grant to or exchange with the federal government, the state of Idaho, any political subdivision, or taxing district of the state of Idaho, with or without compensation, any real or personal property or any interest in such property owned by the fire district or acquired by tax deed, after adoption of a resolution that the grant or exchange of property is in the public interest. Such resolution may be made at any regularly or specially scheduled meeting of the board. Notice of such grant or exchange shall be made in the same manner as set forth in subsections (3) and (4) of this section. The fire protection district's execution and delivery of the deed conveying an interest in the property shall operate to discharge and cancel all levies, liens and taxes made or created for the benefit of the fire protection district and to cancel all titles or claims of title including claims of redemption to such real property asserted or existing at the time of such conveyance.

**31-1421. COMPENSATION AND BENEFITS -- EXPENSES -- LIABILITY.**

(1) Fire district commissioners may receive reasonable compensation for their services as commissioners. The fire protection board shall fix commissioner benefits and compensation for the fiscal year. Compensation for performing district business shall not exceed seventy-five dollars (\$75.00) per day. District business shall include time spent preparing for and attending regular and special board meetings and meetings of committees established by the board. Additional compensation, if approved by a majority of the fire protection board, may be calculated for commissioners who attend county or state agency meetings, educational classes, seminars, and other miscellaneous district business. Commissioners may also participate in the district's employee benefit package in the same manner as employees or volunteers. Any proposed commissioner benefits and annual compensation shall be published as a separate line item in the annual budget of the fire protection district.

(2) Actual expenses of commissioners for travel, and other district expenses approved by the board, shall be paid to the commissioners in addition to their annual compensation and benefits. The payment for expenses shall be paid from the funds of the fire protection district on either a per diem basis or upon the presentation of itemized receipts to the treasurer.

(3) The board shall fix the annual compensation and benefits to be paid to the other officers, agents and employees of the fire district, which shall be paid out of the treasury of the fire district.

(4) The district shall be liable and responsible for the actions and omissions of the commissioners, officers, agents and employees of the district, when the commissioners, officers, agents and employees are performing their duties within the course and scope of their employment with the district, and on behalf of the district.

**31-1422. BUDGET AND HEARING -- NOTICE OF HEARING -- PUBLIC INSPECTION.**

(1) The fire protection district board shall adopt a budget and shall cause a public hearing to be held upon such budget, prior to certifying a tax levy to the board of county commissioners of each county within the district, or having a portion of its territory within the district.

(2) Notice of the budget hearing meeting shall be posted at least ten (10) full days prior to the date of said meeting in at least one (1) conspicuous place in each fire protection district to be determined by the board; a copy of such notice shall also be published in a daily or weekly newspaper published within such district, in one (1) issue thereof, during such ten (10) day period. The place, hour and day of such hearing shall be specified in said notice, as well as the place where such budget may be examined prior to such hearing. A full and complete copy of such proposed budget shall be published with and as a part of the publication of such notice of hearing.

(3) Such budget shall be available for public inspection from and after the date of the posting of notices of hearing as in this section provided, at such place and during such business hours as the board may direct.

(4) A quorum of the board shall attend such hearing and explain the proposed budget and hear any and all objections thereto.

(5) The fiscal year of a fire protection district shall commence either on the first day of October of each calendar year, or on the first day of January of each calendar year, as established by resolution of the fire protection district board of commissioners.

**31-1423. LEVY.**

(1) Each year, immediately prior to the annual county levy of taxes, the board of commissioners of each fire protection district, organized and existing under this chapter, may levy a tax upon all the taxable property within the boundaries of such district sufficient to defray the cost of equipping and maintaining the district of twenty-four hundredths percent (.24%) of market value for assessment purposes, to be used for the purposes of this chapter and for no other purpose. The levy shall be made by resolution entered upon the minutes of the board of commissioners of the

fire protection district, and it shall be the duty of the secretary of the district, immediately after entry of the resolution in the minutes, to transmit to the county auditor and the county assessor certified copies of the resolution providing for such levy. Said taxes shall be collected as provided by section 63-812, Idaho Code.

(2) If two (2) or more fire protection districts consolidate into one (1) district, the provisions of section 63-802, Idaho Code, shall apply to the consolidated district's budget request as if the former district which, in the year of the consolidation, has the higher levy subject to the limitations of section 63-802, Idaho Code, had annexed the other district or districts. In addition, the consolidated district shall receive the benefit of foregone increases accumulated by the former districts under section 63-802(1)(a), Idaho Code.

**31-1424. DUTIES OF COUNTY COMMISSIONERS.** The board of county commissioners, at the time of making the annual county levies, shall make a levy upon all the taxable property not exempt from taxation within each district within the county in the same amount as the levy made by the board of commissioners of each fire protection district, and shall certify such levy or levies to the county auditor, and said auditor shall extend such levy on the rolls of the county, as other county taxes are extended; such special taxes so levied, as aforesaid, shall constitute a lien upon the property so assessed and shall be due and payable at the same time and in all respects are to be collected in the same manner as the state and county taxes, except that the tax collector must keep a separate list thereof and must list said tax in his receipt to the taxpayers and must pay to the county treasurer as he pays other taxes, specify to the treasurer what taxes they are and take a separate receipt therefor, and keep separate accounts thereof.

**31-1425. EXEMPTIONS.**

(1) All public utilities, as defined in section 61-129, Idaho Code, shall be exempt from taxation under the provisions of this chapter and shall not be entitled to the privileges or protection hereby provided without their consent in writing filed with the clerk of the board of county commissioners. Provided however, the board of fire protection commissioners, may enter into an agreement with a public utility for the purpose of affording the privileges or protection provided by the fire protection district to all, or such portion, of the property of the public utility as may be agreed upon between the parties and upon such terms and conditions as may be mutually agreed upon between the parties to the agreement.

(2) The board of county commissioners, upon application and recommendation of the board of fire protection commissioners, may, by an ordinance enacted by not later than the second Monday of July, exempt all or a portion of the unimproved real property within the district from taxation, and may exempt all or a portion of the taxable personal property within the district from taxation. Any ordinance of the board of county commissioners granting an exemption from taxation under the provisions of this section must provide that each category of property is treated uniformly. Notice of intent to adopt an ordinance which exempts unimproved real property shall be provided to property owners of record in substantially the same manner as required in section 67-6511(b), Idaho Code, as if the ordinance were making a zoning district boundary change.

**31-1426. HANDLING OF DISTRICT FUNDS.**

(1) The tax receipts collected by the county as provided for in section 31-1424, Idaho Code, and other funds shall immediately be paid over by the county treasurer to the treasurer of the fire protection district, who shall deposit the same in a bank and be handled in the manner prescribed by the state depository law and all other funds received, by or on behalf of the district, shall be deposited by the treasurer to the credit of the district fund and shall be drawn only upon voucher and by check bearing the signature of the treasurer and at least one (1) commissioner, or in the event that the treasurer is unavailable, checks may be signed by two (2) commissioners. Provided however, upon written resolution of the board, checks may be signed by designated representatives who have been bonded in amounts deemed appropriate by the board.

(2) It is hereby made the duty of the treasurer of the fire protection district to keep account of the district's funds; to place to the credit of the district all moneys received by him from the collector of taxes or from any other officer charged with the collection of taxes as the proceeds of taxes levied by the fire protection board, or from any other sources, and of all other moneys belonging to the district and to pay over all moneys belonging to the district on legally drawn warrants or orders of the district officers entitled to draw the same.

(3) No checks or warrants shall be signed until it is determined that the payment has been legally authorized, that the money has been duly appropriated by the board, and that such appropriation has not been exhausted. No checks or warrants shall be drawn in excess of the moneys actually in the district treasury. Provided however, warrants may be issued in anticipation of a levy except as otherwise provided in this chapter. The district shall pay warrants presented for payment provided there is money in the treasury for that purpose.

(4) All warrants for the payment of an indebtedness of a fire protection district which are unpaid due to lack of funds shall bear interest at a rate to be fixed by the fire protection board from the date of the registering of such unpaid warrants with the treasurer. Provided however, that the dollar amount of the warrants shall not exceed the revenue provided for the year in which the indebtedness was incurred.

**31-1427. INDEBTEDNESS PROHIBITED -- EXCEPTIONS.** The board of commissioners of a fire protection district organized pursuant to the provisions of this chapter shall have no power to incur any debt or liability, except to the extent for the purposes and in the manner hereinafter provided:

(1) In the first year after organization, the board of a district may, for the purpose of organization, to finance general preliminary expenses of the district or for any other purpose of the fire protection district law, and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to one cent (\$.01) on each one hundred dollars (\$100) of market value for assessment purposes of all real and personal property within the district.

(2) Whenever the board of commissioners of a fire protection district shall determine that the interest of said district and the public interest or necessity require incurring an indebtedness exceeding the income and revenue provided for the year for the purposes of (a) acquiring, purchasing, constructing, improving and equipping lands, building sites and buildings together with the necessary appurtenant facilities and equipment and (b) acquiring and purchasing suitable equipment and apparatus necessary to provide fire protection, the board shall have the power and authority as hereinafter provided to issue general obligation coupon bonds not to exceed in the aggregate at any time two percent (2%) of market value for assessment purposes of the real and personal property in said district.

Whenever the board of a district shall deem it advisable to issue general obligation coupon bonds, the board shall provide for the issuance of such bonds by ordinance which shall specify and set forth all the purposes, objects and things required by section 57-203, Idaho Code, and make provision for the collection of an annual tax sufficient to (a) constitute a sinking fund for the payment of the principal thereof within thirty (30) years from the time of contracting said bonded indebtedness and (b) to pay the interest on such proposed bonds as it falls due.

The aforesaid ordinance shall also provide for holding an election, notice of which shall be given for thirty (30) days in a newspaper or newspapers of general circulation in the district. The election shall be conducted in the manner and form, the returns canvassed, and the qualifications of electors of the district voting or offering to vote shall be determined, as provided by the pertinent and applicable provisions of title 34, Idaho Code. The voting at such election must be by ballot and the ballot used shall be substantially as follows: "In favor of issuing bonds to the amount of ..... dollars for the purpose stated in Ordinance No. ...." and "Against issuing bonds to the amount of ..... dollars for the purpose stated in Ordinance No. ...." If at such election two-thirds (2/3) of the qualified electors voting at such election, assent to the issuing of such bonds and the incurring of the indebtedness thereby created for the purposes, objects, and things provided in said Ordinance No. ...., such bonds shall be issued in the manner provided by chapter 2, title 57, Idaho Code, the municipal bond law of the state of Idaho.

Bonds issued pursuant to the provisions of this section and the income therefrom shall be exempt from taxation except transfer and estate taxes.

**31-1428. CARRY OVER -- FUND BALANCE.** The board of commissioners of a fire protection district may accumulate fund balances at the end of a fiscal year and carry over those fund balances into the ensuing fiscal year budget for equipping and maintaining the district. A "fund balance" is the excess of the assets of a fund over its liabilities and reserves.

**31-1429. INCLUSION, ANNEXATION OR WITHDRAWAL OF AREA IN CITIES.** Except as otherwise provided in section 50-224, Idaho Code, any area embraced within the limits of any city may, with the consent of the governing boards of such city and the respective fire protection district, expressed by ordinance or resolution, be included within the limits of a fire protection district, when formed, or be subsequently annexed thereto. Any area in any city embraced within the limits of a fire protection district, shall, upon the consent of the governing boards of such city and fire protection district, expressed by ordinance or resolution, be withdrawn from such fire district.

**31-1430. COOPERATION AND RECIPROCATING USE OF FIREFIGHTING FORCES AND APPARATUS OF DISTRICTS AND CITIES.** Fire protection districts shall have all of the powers given to political subdivisions of the state of Idaho as set forth in section 67-2339, Idaho Code, and sections 67-2326 through 67-2333, Idaho Code, inclusive, to enter into intra-agency and mutual aid agreements with other political subdivisions and municipalities in Idaho, and in other states, for the purposes of protecting life and property against loss by fire and for all other purposes of this chapter. Any fire protection district or city fire department extinguishing a fire or responding to a call for emergency assistance to persons or property not situated within the taxing authority of the fire district or city fire department, is authorized to charge a reasonable

fee for the services provided and shall have a lien upon property serviced, which lien shall be filed of record against the property in the name of the district or city in the time and manner provided by section 45-507, Idaho Code, for liens of original contractors. Fire districts and cities are also authorized to charge reasonable fees for services provided to residents located within the fire district or city in accordance with the requirements and procedures contained in sections 63-1311 and 63-1311A, Idaho Code, and shall have a lien upon the property serviced as provided in this section.

**31-1431. CONTRACTS BETWEEN FIRE PROTECTION DISTRICTS AND INDIVIDUAL PROPERTY OWNERS OUTSIDE OF DISTRICT.** Fire protection districts subject to the conditions hereinafter set forth may, pursuant to the discretion of the fire protection board, contract with individual property owners whose property is situated outside of the external boundaries of the fire protection district within the state of Idaho or within any neighboring state to provide for the same measure of fire protection to such contracting property owner as is provided to property owners within the boundaries of such contracting fire protection districts. All such contracts shall be for a term of one (1) year and shall commence at 12:01 a.m. on January 1 of such year and expire at 12 midnight on December 31 of such year. Contracts shall provide for a monetary consideration to be paid in advance by such property owner and the monetary consideration shall be based upon the cost of providing such service to such property owner, including, but not limited to, covering the district's administrative and contract preparation costs, including legal fees for preparation and review of the contracts, and shall also take into consideration the distance between such property and the fire station or other facility wherein the firefighting equipment of such fire protection district is kept. Monetary consideration shall in no event be less than the amount that would have been paid in taxes that would have been levied and assessed under the provisions of this chapter, if such property had been included within the boundaries of said fire protection district. The power herein granted is subject to the limitation that no such contract may be entered into with any property owner whose house and outbuildings are situate further distant from the firehouse or other facility wherein such district's fire protection equipment is kept than the point on the external boundary of such district that is furthest distant from the firehouse or other facility wherein such district's fire protection equipment is kept. Provided further, however, that all of the contiguous lands of any contracting property owner must be included in said contract unless a portion of such property owner's lands are further distant from the firehouse where such district's firefighting equipment is kept than the point on the external boundary of such fire protection district that is furthest distant from the firehouse, in which case such portion of said lands must be excluded. For the purpose of determining value of eligible property situate outside the state of Idaho, the board of commissioners of such fire protection district shall determine as nearly as possible what the assessed value of such lands outside the state of Idaho would be if the same were situate within the state of Idaho.

**31-1432. CONSTRUCTION OF CHAPTER.** The provisions of this chapter shall beliberally construed to effect the purposes thereof.

**31-1433. CONTINUATION OF EXISTING DISTRICTS -- VALIDATING ACTS OF OFFICERS.** Nothing in this chapter shall be construed as impairing the legality or organization of any fire protection district heretofore organized pursuant to law, nor the legality of any act of such district done in accordance with the prior law, nor shall it be deemed to affect the legality of the election of any officer of any such existing fire protection district, and all directors and officers duly elected, qualified and holding office at the time of the taking effect of this chapter, shall continue to serve in such office until the expiration of their present terms; provided, however, that such fire protection districts as have existed heretofore shall comply with the provisions of this chapter as soon as they can conveniently do so and thereafter be governed by the provisions of this chapter. Nor shall anything in this chapter be deemed in any way to affect the existing indebtedness of any fire protection district created under and by virtue of the provisions of chapter 3, title 30, Idaho Code. All such existing fire protection districts, and the lawful acts of their officers and agents, are hereby declared prima facie lawful as de facto fire protection districts; provided, however, that such districts shall comply with the provisions of this chapter as soon as they can conveniently do so and thereafter be governed by the provisions of this chapter.

**31-1434. ANY DISSOLUTION.** Dissolution of any fire protection district organized under this chapter may be initiated by a petition signed by at least twenty-five percent (25%) of the holders of title, or evidence of title, to the real property within the fire protection district, requesting dissolution of such fire protection district, in the following manner:

The petition shall first be presented to the board of county commissioners of each county in which the fire protection district is situated, signed by the number of holders of title or evidence of title above provided, which petition shall clearly designate the boundaries of the fire protection district and shall state the name of the district and shall be accompanied by a map thereof. The petition, together with all maps and other papers filed therewith, shall, at proper hours, be open to public inspection in the office of the clerk of the board of county commissioners between the date of their said filing and the date of



the election on the question of districts as hereafter provided. The petition may be in one (1) or in several papers. When such petition is presented to the board of county commissioners, and filed in the office of the clerk of the board, the said board shall set a time for hearing of such petition, which time shall not be less than four (4) nor more than six (6) weeks from the date of the presenting and filing of said petition. A notice of the time of such hearing shall be published by said board, once a week for three (3) successive weeks previous to the time set for such hearing, in a newspaper published within the county in which said district is situated. Said notice shall give the boundaries of the fire protection district and shall state that a petition has been filed to dissolve the same, and that on the date fixed for the hearing, any taxpayer within the district, may appear at the hearing and testify and/or present exhibits upon any issue pertaining to the proposed dissolution of the fire district, or may object to or support the proposed dissolution.

After hearing and considering any and all testimony and other evidence either made in favor of or in opposition to the dissolution of the fire district, if the board of county commissioners makes a sufficient factual finding that the majority of the residents of the fire district will receive no benefit by continuing the existence of the fire district, the county commissioners shall make an order granting the petition, with or without modification. Provided however, the board of county commissioners, after hearing and considering all testimony and other evidence either in favor of or in opposition to the dissolution of the fire district, cannot make a sufficient factual finding that the majority of the residents of the fire district will receive no benefit by continuing the existence of the fire district, the county commissioners shall make an order denying the petition. After the county commissioners have entered their order approving or denying such petition, the clerk of the board of county commissioners shall cause to be published, a notice of election to be held in such proposed fire protection district, for the purpose of determining whether or not the same shall be dissolved. Such notice shall plainly and clearly designate the boundaries of the fire protection district, its name, and further, that the election is to be held to decide the question of whether the fire protection district shall be maintained or dissolved. Such notice shall be published once in each week for three (3) successive publications prior to such election, in a newspaper published within the county aforesaid.

Such notice shall require the electors to cast ballots which shall contain the words "fire protection district dissolved .... yes" or: "fire protection district dissolved .... no" or words equivalent thereto. No person shall be entitled to vote at any election held under the provisions of this chapter, unless he shall possess all the qualifications required of electors under the general laws of the state and be a resident of the district.

The election qualifications of electors and canvass of the ballots shall be made in the same manner as provided for in sections 31-1406 and 31-1407, Idaho Code.

If a majority of the electors voting at such election shall vote to dissolve the fire protection district, the board of county commissioners shall, after certifying the results of such election, enter an order upon the minutes of its official proceedings dissolving said fire protection district, and such district shall thereupon be dissolved.

Provided, however, that whenever a petition requesting dissolution of a fire protection district is signed by the holders of title, or evidence of title, to all of the real property included within the fire protection district and is presented to the board of county commissioners of the county in which the fire protection district is situated, accompanied by a map clearly designating the boundaries of the district, the board of county commissioners shall set a time for hearing of such petition, which time shall not be less than four (4) nor more than six (6) weeks from the date of the presenting and filing of said petition. A notice of the time and place of such hearing shall be published by said board once a week for three (3) successive weeks previous to such hearing, in a newspaper published within the county in which the fire protection district is situated. Said notice shall give the boundaries of the fire protection district and shall state that a petition has been filed to dissolve the same, and that on the date fixed for the hearing, any resident, taxpayer, or creditor of such fire protection district may appear and offer any objection to the dissolving of the fire protection district. If at such hearing, no protests are made to the granting of the petition, the board of county commissioners shall enter an order upon the minutes of its official proceedings dissolving such fire protection district, and such district shall thereupon be dissolved. If, however, any protests from residents, taxpayers, or creditors of the district are entered at such hearing, the board of county commissioners shall, within thirty (30) days of said hearing, determine whether or not such fire protection district shall be dissolved and shall cause an order to that effect to be entered upon the minutes of its official proceedings. If the board determines that the fire protection district shall be dissolved, such dissolution shall be effective as of the date of the entry of such order upon the minutes.

The property of such district shall remain the property of the county in which such district is located and any money remaining in the fund of such district shall be expended in the maintenance and repair of the highways of such district whether such highways at the time of the dissolution, are in the incorporated territory or in unincorporated territory.

If the district is situated in two (2) or more counties, each board of county commissioners shall coordinate the hearing date and the publications of notice so that only one (1) hearing need be held. Unless otherwise agreed to by each board of county commissioners involved, the hearing shall be held at the administrative offices of the district, and the boards of county commissioners are hereby specifically authorized to act in a joint manner for such purposes. If an election is called, the boards of county commissioners shall provide that the election be held on the same day in each county, and the boards of

county commissioners shall coordinate the canvass of the votes cast and make one (1) joint announcement. If a majority of votes in any county are against the dissolution of the district, such rejection shall void the dissolution of the district in all counties.

**31-1435. SEPARABILITY.** The several parts and provisions of this chapter are hereby declared independent and severable and the invalidity of any part or feature thereof shall not affect, impair, or invalidate the remainder of said section, or any part thereof.

**31-1436. NONLIABILITY OF AGENCY FOR DELAY IN REPORT OF FIRE -- EXCEPTION.** No person, corporation, partnership or association which is authorized by any city fire department, fire protection district or by any volunteer fire company to receive any report of fire or which agrees to receive and transmit the report to the fire department, fire protection district or volunteer fire company, shall be liable in any civil action for damage to property or persons, including death, caused by delay in reporting or failure to report the fire, unless the delay or failure is the result of the gross negligence of the person, corporation, partnership or association.

**31-1437. LIABILITY FOR INDEBTEDNESS OF FIRE PROTECTION DISTRICTS AFTER BOUNDARY CHANGES.** Territory withdrawn from any fire protection district shall continue to be subject to taxation for the payment of the principal of and interest on any indebtedness, whether evidenced by bonds, notes, or other similar evidences of indebtedness created by election outstanding upon the effective date of withdrawal as fully as though the territory had not been withdrawn. For the purpose of discharging the indebtedness and interest thereon and other obligations, the territory shall be considered a part of the district the same as though not withdrawn. All provisions which could have been used to compel the payment by the withdrawn territory of its portion of the indebtedness and interest thereon had the withdrawal not occurred can be used to compel the payment on the part of the withdrawn territory of the portion for which it is liable. Provided, however, by mutual agreement, the entity annexing or withdrawing territory from the district may acquire the capital assets which represent the proceeds of the indebtedness and pay off or assume the indebtedness to the extent otherwise permitted by law and the terms of the underlying obligation.

**31-3901. AUTHORIZATION TO ESTABLISH AMBULANCE SERVICE -- SPECIAL LEVY.** The boards of county commissioners in the several counties are hereby authorized, whenever existing ambulance service is not reasonably available to the inhabitants of the county or any portion thereof, to procure an ambulance and pay for the same out of any funds available and to establish an ambulance service to serve the areas, which do not have an existing ambulance service reasonably available, both within and outside the cities and villages in their respective counties, and to levy a special tax not to exceed two hundredths percent (.02%) of the market value for assessment purposes on all taxable property within the county to support the same. Providing ambulance service is a governmental function.

**31-3902. COUNTY TREASURERS TO ESTABLISH AMBULANCE SERVICE FUND.** The county treasurer of each county in which an ambulance service has been established pursuant to this act shall establish a fund to be designated as the ambulance service fund, and used exclusively for the purposes of this act.

**31-3903. AMBULANCE SERVICE -- POWERS AND DUTIES OF BOARD OF COUNTY COMMISSIONERS.** The board of county commissioners shall determine the manner in which said ambulance service shall be operated, and is empowered to make expenditures from the ambulance service fund for the purchase or lease of real property and the construction of buildings necessary in connection with said service, to acquire necessary equipment for the operation and maintenance of said service, and to pay necessary salaries.

**31-3904. AMBULANCE SERVICE -- FEES.** The board of county commissioners shall adopt a schedule of fees to be charged for the use of said ambulance service. All such fees shall be collected, accounted for and paid to the county treasurer for deposit in the ambulance service fund, and shall be used to pay expenses as incurred in the maintenance and operation of said ambulance service.

**31-3905. AMBULANCE SERVICE -- OPERATION DEPENDENT UPON RESOLUTION OF EACH CITY -- RIGHT TO TAX UNAFFECTED BY NONSERVICE.** All cities and villages within the county, upon resolution duly passed and approved and presented to the board of county commissioners, may authorize said ambulance service to operate within the boundaries of said city or village, but the failure of any such governing body to authorize said ambulance service to operate within the limits of said village or city, shall not affect the right of the board of county commissioners to levy the tax as hereinbefore provided.

**31-3906. AMBULANCE SERVICE -- ADJACENT COUNTIES AND/OR PRIVATE INDIVIDUALS AND CORPORATIONS MAY HAVE COOPERATIVE AGREEMENT.** The board of county commissioners of any county wherein such ambulance service has been established is authorized in its discretion and under such terms and conditions as it deems appropriate to enter into a cooperative agreement with adjacent counties and for private individuals and corporations to provide ambulance service for such county or counties or a portion thereof. All cost of said service shall be apportioned equitably among the participating counties as determined by their respective boards of county commissioners.

**31-3907. AMBULANCE SERVICE -- TERMINATION OF.** Any county having adopted and established an ambulance service as provided in this act, may terminate the same for good cause by the adoption of a resolution by the board of county commissioners. Upon the termination of said ambulance service, all vehicles and property not necessary for other county purposes shall be sold and the proceeds therefrom paid to the county treasurer to be deposited in the general fund of the county. All moneys on deposit in the ambulance service fund shall be transferred to the general fund of the county.

**31-3908. AMBULANCE DISTRICT AUTHORIZED.**

(1) The county commissioners of any county shall, upon petition signed by not less than fifty (50) qualified electors of said county, or any portion thereof, which may exclude incorporated cities, undertake the following procedure to determine the advisability of resolving to establish and maintain an ambulance service district within the county as may be designated in the petition.

(a) A petition to form an ambulance service district shall be presented to the county clerk and recorder. The petition shall be signed by not less than fifty (50) of the resident real property holders within the proposed district. The petition shall designate the boundaries of the district.

(b) The petition shall be filed with the county clerk and recorder of the county in which the signers of the petition are located. Upon the filing of the petition the county clerk shall examine the petition and certify whether the required number of petitioners have signed the petition. If the number of petition signers is sufficient, the clerk shall transmit the petition to the board of county commissioners.

(c) Upon receipt of a duly certified petition the board of county commissioners shall cause the text of the petition to be published once a week for at least three (3) consecutive weeks in a newspaper of general circulation within the county. With the publication of the petition there shall be published a notice of the time of the meeting of the board of county commissioners when the petition will be considered stating that all persons interested may appear and be heard. No more than five (5) names attached to the petition shall appear in the publication and notice, but the number of signatures shall be stated.

At the time of filing the petition the sponsors thereof shall cause to be deposited with the county clerk a sufficient sum of money to cover the cost of publication of the petition and all necessary notices. If the petition and notices are not published the deposit shall be returned to whomever deposited the funds, and if there is any surplus remaining after paying for the publication as herein provided it shall be returned to the original depositors, and if a district is created the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

(d) At the time set for hearing the petition, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of an ambulance service district. The board of county commissioners may, if they so desire and it appears desirable, adjourn the meeting for not to exceed thirty (30) days in time to further hear the petitioners and protestants, if any. After the hearing or hearings, the board of county commissioners shall adopt a resolution either creating the proposed ambulance service district or denying the petition. When the board of county commissioners creates an ambulance service district the board shall adopt a resolution describing the boundaries of the district.

(e) When the board of county commissioners adopts the resolution creating the ambulance service district, the board shall include in the resolution the name of the district, and file a copy of the order creating the district with the county clerk and recorder, for which the clerk shall receive a fee of three dollars (\$3.00).

(f) Procedures for annexation, deannexation, or dissolution of a district created pursuant to this section shall be in substantial compliance with the provisions for public notice and hearing provided herein, and shall be by resolution adopted by the board of county commissioners.

(2) When the board of county commissioners has ordered the creation of an ambulance service district, pursuant to the provisions of this section, such district is hereby recognized as a legal taxing district, and providing ambulance service is a governmental function.

(3) The board of county commissioners shall be the governing board of an ambulance service district created pursuant to this section, and shall exercise the duties and responsibilities provided in chapter 39, title 31, Idaho Code.

(4) In any county where an ambulance service district is created as provided herein, the board of county commissioners is authorized to levy a special tax, not to exceed four-hundredths percent (.04%) of market value for assessment purposes, except as authorized by paragraph (a) of this subsection, upon all taxable property within the district for the purposes of the district, but the levy otherwise authorized in section [31-3901](#), Idaho Code, shall not be made on taxable property within the district.

(a) In any county where an ambulance service district:

(i) Was created as of January 1, 1976,

(ii) Had at the time of its creation a market value for assessment purposes of the district of less than three hundred million dollars (\$300,000,000), and

(iii) The service provided by the district is an advanced life support paramedic unit, the board of county commissioners may submit to the electors within the district the question of whether the levy authorized in subsection (4) of this section may be increased to a levy not to exceed six-hundredths percent (.06%) of market value for assessment purposes upon all taxable property within the district for the purposes of the district, if approved by a minimum of two-thirds (2/3) of the qualified electors of the district voting at an election called for that purpose and held on the May or November dates provided in section [34-106](#), Idaho Code, but the levy otherwise authorized in section [31-3901](#), Idaho Code, shall not be made on taxable property within the district.

(5) The board of county commissioners is authorized by resolution to create an ambulance district capital improvement account. The board may dedicate all or a portion of the fees and taxes collected pursuant to this chapter to the capital improvement account for the purpose of purchasing necessary buildings, land or equipment for the operation of the district. The board is further authorized to carry over and add to the funds in the account from year to year in order to make the purchases authorized by this subsection.

**31-3908A. EXEMPTIONS FROM TAXATION.** The board of county commissioners, upon application, may, by an ordinance enacted by not later than the second Monday of July, exempt all or a portion of the unimproved real property within the district from taxation, and may exempt all or a portion of the taxable personal property within the district from taxation. Any ordinance of the board of county commissioners granting an exemption from taxation under the provisions of this section must provide that each category of property is treated uniformly. Notice of intent to adopt an ordinance which exempts unimproved real property shall be provided to property owners of record in substantially the same manner as required in section 67-6511(b), Idaho Code, as if the ordinance were making a zoning district boundary change.

**31-3909. IMMUNITY OF AMBULANCE ATTENDANT.** No action shall lie or be maintained for civil damages in any court of this state against any person or person[s], or group of persons, including ambulance attendants employed by an ambulance service district, who offers and administers first aid or emergency medical attention as a part of his normal duty as an ambulance attendant to any person or person[s] utilizing the services and facilities of an ambulance service district, unless it can be shown that the person or persons offering or administering first aid or emergency medical attention is guilty of gross negligence in the care or treatment offered or administered, or has treated them in a grossly negligent manner. The immunity described herein shall cease upon delivery of the injured or treated person to either a generally recognized hospital for treatment of ill or injured persons, or upon assumption of treatment in the office or facility of any person undertaking to treat said ill or injured person or persons.

**31-3910. CONSENT FOR EMERGENCY MEDICAL TREATMENT.** The authorization or refusal of consent for emergency medical treatment under chapter 39, title 31, Idaho Code, shall be governed by chapter 45, title 39, Idaho Code.

**31-4801. PURPOSE.** The legislature recognizes that providing consolidated emergency communications systems is vital in enhancing the public health, safety, and welfare of the residents of the state of Idaho. The legislature further finds that there is an obvious need for providing a means to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency communications systems.

(1) The legislature of the state of Idaho finds that:

(a) Since the original enactment of the emergency communications act in 1988, many of Idaho's communities have found that they are lacking in the resources to fully fund emergency communications systems at the local level;

- (b) Changes in technology and the rapid growth of communications media have demonstrated that financing such systems solely by a line charge on subscribers to wireline services does not reflect utilization of emergency communications systems by subscribers to wireless and other forms of communications systems;
  - (c) There is a need to enhance funding for the initiation and enhancement of consolidated emergency communications systems throughout the state;
  - (d) Utilization of cellular telephones and voice over internet protocol (VoIP) communications to access emergency communications systems has substantially increased citizen access to emergency services while at the same time increasing demands upon the emergency response system;
  - (e) In order to protect and promote the public health and safety, and to keep pace with advances in telecommunications technology and the various choices of telecommunications technology available to the public, there is a need to plan and develop a statewide coordinated policy and program to ensure that enhanced 911 services are available to all citizens of the state and in all areas of the state.
- (2) Therefore, it is hereby declared that the intent and purpose of the provisions of this act are to:
- (a) Provide authority to counties and 911 service areas to impose an emergency communications fee on the use of telephone lines, wireless, VoIP or other communications services that connect an individual dialing 911 to an established public safety answering point;
  - (b) Provide that the emergency communications fee shall be exclusively utilized by the counties or 911 service areas electing to impose it to finance the initiation, maintenance, operation, enhancement and governance of consolidated emergency systems as well as enhanced consolidated emergency systems;
  - (c) Provide for the agreed-to reimbursement to telecommunications providers for their implementation of enhanced consolidated emergency communications systems by counties or 911 service areas that have implemented enhanced consolidated emergency communications systems.

**31-4802. DEFINITIONS.** As used in this chapter:

- (1) "Access line" means any telephone line, trunk line, network access register, dedicated radio signal, or equivalent that provides switched telecommunications access to a consolidated emergency communications system from either a service address or a place of primary use within this state. In the case of wireless technology, each active dedicated telephone number shall be considered a single access line.
- (2) "Administrator" means the person, officer or agency designated to operate a consolidated emergency communications system, and to receive funds for such an operation.
- (3) "Basic consolidated emergency system" means consolidated emergency systems that are not enhanced.
- (4) "Consolidated emergency communications system" means facilities, equipment and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service.
- (5) "Emergency communications fee" means the fee provided for in section 31-4803, Idaho Code.
- (6) "Enhanced consolidated emergency system" means consolidated emergency systems that provide enhanced wireless 911 service and include, but are not limited to, the technological capability to provide call back numbers, cell site locations, and the location of calls by latitude and longitude and made through the systems of wireless carriers.
- (7) "Governing board" means the joint powers board, if the 911 service area is a multicounty area, or the board of county commissioners of the county or the city council if the 911 service area is a city, or both the board of county commissioners and the city council if the 911 service area includes both city and county residents but not the entire county.
- (8) "Interconnected" means the ability of the user to receive calls from and terminate calls to the public switched telephone network (PSTN), including commercial mobile radio service (CMRS) networks.
- (9) "Interconnected VoIP service" means a service bearing the following characteristics:
  - (a) The service enables real-time, two-way voice communications;
  - (b) The service requires a broadband connection from the user's location;
  - (c) The service requires IP-compatible customer premises equipment; and
  - (d) The service permits users to receive calls that originate on the public switched telephone network (PSTN) and to terminate calls on the PSTN.
- (10) "Interconnected VoIP service line" means an interconnected VoIP service that offers an active telephone number, or successor dialing protocol assigned by a VoIP provider to a VoIP service customer number that has an outbound calling capability of directly accessing a public safety answering point.
- (11) "911 service area" means a regional, multicounty, county or area other than a whole county in which area the residents have voted to establish a consolidated emergency communications system.

(12) "Place of primary use" means the residential street address or the primary business street address in Idaho where the customer's use of the wireless or VoIP service primarily occurs. For the purposes of 911 fees imposed upon interconnected VoIP service lines, the place of primary use shall be the customer's registered location on the date the customer is billed.

(13) "Telecommunications provider" means any person providing:

- (a) Exchange telephone service to a service address within this state; or
- (b) Any wireless carrier providing telecommunications service to any customer having a place of primary use within this state; or
- (c) Interconnected VoIP service to any customer having a place of primary use within this state; or
- (d) A provider of any other communications service that connects an individual having either a service address or a place of primary use within this state to an established public safety answering point by dialing 911.

(14) "VoIP service provider" means any person providing interconnected voice over internet protocol (VoIP) service.

(15) "Wireless carrier" means a cellular licensee, a personal communications service licensee, and certain specialized mobile radio providers designated as covered carriers by the federal communications commission in 47 CFR 20.18 and any successor to such rule.

### **31-4803. AUTHORITY TO ESTABLISH AND FOR VOTERS TO APPROVE FUNDING FOR A CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEM.**

(1) The board of commissioners of any county may establish a consolidated emergency communications system by virtue of authority granted by this chapter or by chapter 23, title 67, Idaho Code. The service area may be regional, multicounty, countywide, or any part or parts of the county, and may include or exclude a city or cities. If the board of county commissioners has adopted a resolution stating that the county is unable to establish a countywide consolidated emergency communications system, or if the voters reject a countywide consolidated 911 system, then a 911 service area may be established by action of any city or cities within the county. The 911 service area shall be described in the ordinance of creation. The ordinance shall further provide for an election on the question as provided in subsection (2) of this section. The ordinance of creation shall define the governing board, designate the administrator, and the agency to service the 911 calls. The costs of the election ordered by the county shall be a proper charge against the county current expense fund. The costs of the election for a 911 service area shall be a proper charge against the city or cities initiating the election.

(2) The voters of any county or 911 service area may authorize funding to support implementation of a consolidated emergency communications system pursuant to the provisions of this chapter. The authorization to provide such funding must be made by the registered voters of the county or of the 911 service area at either a primary or general election. A notice for any election shall be published for twenty (20) days as required by section 60-109, Idaho Code. A sixty percent (60%) majority of the votes cast in favor of the question shall be necessary to authorize the emergency communications fee.

(3) If a 911 system is to be financed in whole or in part by an emergency communications fee, the governing board shall submit the question to the electors of the county or 911 service area in substantially the following form:

"Shall the governing board of ..... be authorized to institute an emergency communications fee in an amount no greater than one dollar (\$1.00) per month to be used to fund an emergency telephone system, commonly known as 911 service?"

(4) No emergency communications fee for a consolidated emergency communications system shall be charged without voter approval as provided in subsection (2) of this section.

(5) Any net savings in operating expenditures realized by any taxing district utilizing a consolidated emergency communications system shall be used by that taxing district for a reduction in the property tax charges of that taxing district.

(6) If the voters of any county or 911 service area have previously approved funding of a consolidated emergency communications system in the manner provided in subsections (2) and (3) of this section, no further vote is necessary to authorize the emergency communications fee set forth in this act.

(7) Effective October 1, 2004, and every year thereafter, the emergency communications fee provided for in this act shall be reviewed and modified as required by this subsection by the board of commissioners of a countywide system or by the governing board of a 911 service area as follows:

- (a) The level of the emergency communications fee shall be reviewed and, as appropriate and necessary, readjusted by action of the board of commissioners or the governing board on an annual basis. The board of commissioners or governing board shall set the level of the fee based upon the revenue requirements necessary to implement an annual budget prepared under the direction of the board of commissioners or governing board for

the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system, including both basic and, if applicable, enhanced consolidated emergency systems.

(b) The revenues from emergency communications fees shall be exclusively expended pursuant to the budget established in paragraph (a) of this subsection. Use of such revenues for any other purpose is expressly prohibited.

(c) The process of reviewing and setting the level of emergency communications fees shall be governed by the meeting and public notice provisions of section 31-710(4), Idaho Code. For the purposes of this section, the setting of a fee shall be deemed to be the promulgation of a rule such that public participation provisions of section 67-5222, Idaho Code, shall apply to the meetings of the board of commissioners or of a governing board pursuant to this section.

#### **31-4804. EMERGENCY COMMUNICATIONS FEE.**

(1) The emergency communications fee provided pursuant to the provisions of this chapter shall be a uniform amount not to exceed one dollar (\$1.00) per month per access or interconnected VoIP service line, and such fee shall be used exclusively to finance the initiation, maintenance, operation, enhancement and governance of a consolidated emergency communications system and provide for the reimbursement of telecommunications providers for implementing enhanced consolidated emergency systems as provided for in section 31-4804A, Idaho Code. All emergency communications fees collected and expended pursuant to this section shall be audited by an independent, third party auditor ordinarily retained by the governing board for auditing purposes. The purpose of the audit as related to emergency communications systems is to verify the accuracy and completeness of fees collected and costs expended.

(2) The fee shall be imposed upon and collected from purchasers of access lines or interconnected VoIP service lines with a service address or place of primary use within the county or 911 service area on a monthly basis by all telecommunications providers of such services. The fee may be listed as a separate item on customers' monthly bills.

(3) The telecommunications providers shall remit such fee to the county treasurer's office or the administrator for the 911 service area based upon the 911 service area from which the fees were collected. In the event the telecommunications provider remits such fees based upon the emergency communications fee billed to the customer, a deduction shall be allowed for uncollected amounts when such amounts are treated as bad debt for financial reporting purposes.

(4) From every remittance to the governing body made on or before the date when the same becomes due, the telecommunications provider required to remit the same shall be entitled to deduct and retain one percent (1%) of the collected amount as the cost of administration for collecting the charge. Telecommunications providers will be allowed to list the surcharge as a separate item on the telephone subscriber's bill, and shall have no obligation to take any legal action to enforce the collection of any charge, nor be held liable for such uncollected amounts.

(5) Use of fees. The emergency communications fee provided hereunder shall be used only to pay for the lease, purchase or maintenance of emergency communications equipment for basic and enhanced consolidated emergency systems, including necessary computer hardware, software, database provisioning, training, salaries directly related to such systems, costs of establishing such systems, management, maintenance and operation of hardware and software applications and agreed-to reimbursement costs of telecommunications providers related to the operation of such systems. All other expenditures necessary to operate such systems and other normal and necessary safety or law enforcement functions including, but not limited to, those expenditures related to overhead, staffing, dispatching, administrative and other day to day operational expenditures, shall continue to be paid through the general funding of the respective governing boards; provided however, that any governing body using the emergency communication fee to pay the salaries of dispatchers as of March 1, 2006, may continue to do so until the beginning of such governing body's 2007 fiscal year.

#### **31-4804A. ESTABLISHMENT OF ENHANCED CONSOLIDATED EMERGENCY COMMUNICATIONS SYSTEMS.**

(1) Any county or 911 service area that has established a basic consolidated emergency system may establish an enhanced consolidated emergency system by action of the governing board of the basic consolidated emergency system.

(2) The governing boards establishing enhanced consolidated emergency systems shall request that wireless carriers serving such counties or 911 service areas collectively implement an enhanced consolidated emergency communications system within a reasonable time. When so requested, all wireless carriers serving such counties or 911 service areas shall implement enhanced consolidated emergency communications systems within a reasonable time. The governing boards and wireless carriers shall enter into agreements that:

- (a) Establish the scope and purpose of the proposed enhanced consolidated emergency communications system.
- (b) Provide for an agreed-to level of reimbursement for telecommunications providers for the costs of wireless carriers resulting from their implementation and operation of enhanced emergency communications systems that may include the acquisition, construction, financing, installation and operation of all equipment and facilities necessary to implement such enhanced systems.
- (c) Provide that the agreed-to level of reimbursement for telecommunications providers for enhanced 911 service may include the costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware and software required in order to provide such service as well as the recurring and nonrecurring costs of operating such service. All costs and expenses must be commercially reasonable.
- (d) Provide that reimbursement to a telecommunications provider shall be nondiscriminatory and be made available to all other telecommunications providers. Agreements shall provide for prompt reimbursement on invoices submitted by wireless carriers to the governing board.

**31-4805. ESTABLISHMENT OF JOINT POWERS BOARD FOR OPERATION OF EMERGENCY COMMUNICATIONS SERVICE.** Within one hundred eighty (180) days following voter approval of an emergency communications fee as provided in section 31-4803, Idaho Code, a governing board or administrator may be established under a joint powers agreement pursuant to sections 67-2326 through 67-2332, Idaho Code. Such joint powers board or administrator shall be responsible for establishing, maintaining, operating, enhancing and governing a consolidated emergency communications system. Providing an emergency communications service shall be considered a governmental function.

**31-4806. AUTHORIZATION FOR GOVERNING BOARD TO APPOINT OFFICIAL TO SUPERVISE EMERGENCY COMMUNICATIONS SERVICE IN THE ABSENCE OF JOINT POWERS AGREEMENT.** Whenever the electors approve imposing the emergency communications fee as provided in this chapter, but in the absence of an agreement to form a joint powers board or administrator as provided in this chapter, the governing board is hereby authorized to appoint an official or administrator to maintain, operate, enhance and govern a consolidated emergency communications system.

**31-4807. RIGHT TO FEE NOT AFFECTED BY NONSERVICE.** All governmental entities within the county that have an already established emergency communications system using 911 call access, upon resolution duly adopted and approved and presented to the joint powers board or in their absence to the board of county commissioners, may ask that their existing emergency communication system area be excluded and such area shall be excluded from the county-wide emergency communications service but such exclusion shall not affect the right of the board of county commissioners to levy the fees as herein provided. No city or other agency shall establish an individual emergency communication system once a county-wide system as provided in this chapter has been adopted by the board of county commissioners. Whenever an area is excluded pursuant to this section, the board of county commissioners shall remit to the excluded entity one hundred percent (100%) of the fees collected in the excluded area as provided pursuant to this chapter. Any area excluded pursuant to this section may be subsequently included upon resolution duly adopted and approved and presented to the joint powers board or, in their absence, to the board of county commissioners.

**31-4808. TERMINATION.**

- (1) Any county or joint powers board having adopted and established an emergency communications system as provided in this chapter may terminate the same for good cause.
- (2) If, after the formation of any 911 service area of less than county-wide extent, the voters of the county approve 911 service for the entire county, the newly formed county-wide 911 service area shall assume all of the assets and liabilities of all 911 service areas existing in that county at the time of formation of the county-wide system. Existing 911 service areas shall have two (2) years from the date of the county-wide election to merge into the county-wide consolidated emergency communications system.

**31-4809. FUND AND APPROPRIATIONS.** The county treasurer of each county or the administrator for a 911 service area in which an emergency communications system has been established pursuant to this chapter shall establish a fund to be designated the emergency communications fund in which all fees collected pursuant to this chapter shall be deposited and such fund shall be used exclusively for the purposes of this chapter. The moneys collected and the interest earned in this fund shall be appropriated by the county commissioners, or governing board, for expenses incurred by the emergency



communications system as set forth in an annual budget prepared by the joint powers board, or in their absence, the county commissioners and incorporated into the annual county budget.

**31-4810. EXISTING JOINT COUNTY-WIDE EMERGENCY DISPATCH SYSTEMS NOT AFFECTED.** Joint county-wide emergency dispatch systems that are in existence prior to July 1, 1987, shall not be affected by the provisions of this chapter. These emergency dispatch systems may continue to function as they have and shall be eligible to receive revenues generated by this chapter.

**31-4811. PAY PHONES TO BE CONVERTED TO ALLOW EMERGENCY CALLS WITHOUT CHARGE.** Every provider of telephone service or other owner of a pay station telephone in an area served by an emergency telephone system established pursuant to this chapter must convert every pay station telephone to permit dialing 911 or the telephone company operator without deposit of a coin or other charge to the caller. Conversion must be completed by or before the time the emergency telephone system is operational. If modification of telephone service switching equipment is necessary to implement the provisions of this section, such modification shall be considered a cost of the emergency communications program and the provider of telephone service shall be compensated from the user fees authorized for this chapter upon application to the county, providing that such costs are approved by the public utilities commission.

**31-4812. IMMUNITY AND CONDITIONS OF LIABILITY IN PROVIDING EMERGENCY COMMUNICATIONS SERVICE.** In order to further the purposes of this chapter, and to encourage the development of consolidated emergency communications systems, the legislature finds that telecommunications providers making available consolidated emergency communications systems and related services shall not be subject to liability in conjunction with providing such services except on the terms stated below.

- (1) No telecommunications provider shall be liable to any person for the good faith release to emergency communications system personnel of information not in the public record including, but not limited to, nonpublished or nonlisted telephone numbers.
- (2) A telecommunications provider making available emergency communications systems or services, and its employees and agents, shall not be liable in tort to any person for damages alleged to have been caused by the design, development, installation, maintenance or provision of consolidated emergency communications systems or services, unless such entities or persons act with malice or criminal intent, or commit reckless, willful and wanton conduct.
- (3) For the purposes of this section, "reckless, willful and wanton conduct" is defined as an intentional and knowing action, or failure to act, creating an unreasonable risk of harm to another, and which involves a high degree of probability that such harm will result

**31-4813. PREPAID CALLING CARDS.** The imposition of the emergency communications fee shall not apply to the prepaid calling cards for all forms of access fees. Prepaid wireline, wireless and VoIP phones with a service address or place of primary use within Idaho are not considered prepaid calling cards.

**31-4814. CONFIDENTIAL AND PROPRIETARY DATA.** All data submitted to governing boards by wireless carriers deemed by such carriers as confidential and proprietary shall be deemed to be trade secrets pursuant to chapter 3, title 9, Idaho Code.

**31-4815. CREATION OF IDAHO EMERGENCY COMMUNICATIONS COMMISSION -- TERMS.**

- (1) There is hereby created in the military division an Idaho emergency communications commission (hereinafter referred to as "the commission") for the purpose of assisting cities, counties, ambulance districts and fire districts in the establishment, management, operations and accountability of consolidated emergency communications systems. Notwithstanding any other provision of law to the contrary, the commission shall, upon being constituted, exercise its powers and duties in accordance with the provisions of this section relative to consolidated emergency communications in this state established by enactment of the legislature or by private act.
- (2) The commission shall be composed of thirteen (13) voting members, with eleven (11) appointed by the governor as follows: one (1) member representing the association of Idaho cities, one (1) member representing the Idaho association of counties, one (1) member representing the Idaho sheriffs' association, one (1) member representing the Idaho chiefs of police association, one (1) member representing the Idaho fire chiefs association, one (1) member representing the Idaho prosecuting attorneys association, one (1) member representing the Idaho state emergency medical services communications center, one (1) member representing the Idaho emergency medical services association, one (1) member representing the public at large and two (2) members representing private industry service

providers, one (1) from the wireless industry and one (1) from the traditional phone service industry. The commission shall also include the director of the Idaho state police or a designated representative and the adjutant general or a designated representative. One (1) representative of the attorney general shall serve as a nonvoting ex officio member.

(3) Except as provided in this subsection, members of the commission shall be appointed for a term of four (4) years. The following five (5) members shall be appointed to an initial term of two (2) years: the member representing the Idaho fire chiefs association, the member representing the Idaho state emergency medical services communications center, the member representing the Idaho emergency medical services association, the member representing the wireless industry, and one (1) member representing the public. The remaining six (6) members appointed by the governor shall be appointed for an initial term of four (4) years. Thereafter, all terms shall be for a period of four (4) years.

(4) The commission shall elect a chair and such officers as it may deem necessary and appropriate. The commission shall meet at least annually and at the call of the chair. Members of the commission shall be compensated as provided in section 59-509(b), Idaho Code. Compensation shall be paid from the emergency communications fund created in section 31-4818, Idaho Code.

**31-4816. IDAHO EMERGENCY COMMUNICATIONS COMMISSION -- PURPOSES AND RESPONSIBILITIES.** The purposes and responsibilities of the commission are to:

- (1) Determine the status and operability of consolidated emergency communications systems statewide;
- (2) Determine the needs for the upgrade of consolidated emergency communications systems;
- (3) Determine the costs for the upgrades;
- (4) Recommend guidelines and standards for operation of consolidated emergency communications systems;
- (5) Recommend funding mechanisms for future implementation of upgrades;
- (6) Serve as a conduit for the future allocation of federal grant funds to support the delivery of consolidated emergency communications systems;
- (7) Report annually to the legislature of the state of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the fund and programs or projects in progress, completed or anticipated;
- (8) Enter into contracts with experts, agents, employees or consultants as may be necessary to carry out the purposes of this chapter; and
- (9) Promulgate rules pursuant to the provisions of chapter 52, title 67, Idaho Code, to carry out the purposes of the commission's duties.

**31-4817. IDAHO EMERGENCY COMMUNICATIONS COMMISSION -- MEDIATION.** In the event that a dispute arises between local government entities over the governance of operations of consolidated emergency communications systems, those local governments shall be required, prior to initiating any legal action, to submit the contested issue or issues to the commission for purposes of mediation. The commission shall have sixty (60) days from the date of submission of any issues to mediate and recommend a course of action to the local governments involved in the dispute. Any recommendation of the commission shall be advisory only and shall not be binding on the parties involved. After receipt of any recommendation by the commission, the local governments may accept in whole or in part the recommendations or may initiate legal action as provided by contract or law.

**31-4818. IDAHO EMERGENCY COMMUNICATIONS FUND -- ESTABLISHMENT AND ADMINISTRATION.**

- (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho emergency communications fund, which shall consist of moneys received from counties, cities, consolidated emergency communications operations, grants, donations, gifts and revenues from any other source to support the delivery of consolidated emergency communications systems.
- (2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter as determined by the commission.
- (3) Annually, at the direction of the commission, not more than one percent (1%) of the total emergency communications fees collected in the state of Idaho is hereby dedicated for and shall be placed in the fund on a quarterly basis by county, city or consolidated emergency communications systems. The commission, on an annual basis, shall prepare a budget indicating that portion of the fee necessary for the continuous operation of the commission to achieve the purposes of this chapter.
- (4) The commission shall authorize disbursement of moneys in the fund to eligible entities.

- (5) The state treasurer shall invest idle moneys in the fund and interest earned from such investments shall be returned to the fund.

## **TITLE 33 EDUCATION**

### **33-4302A. PUBLIC SAFETY OFFICER DEPENDENT SCHOLARSHIPS -- STATE AID.**

(1) Any dependent of a full-time or part-time public safety officer, as defined in subsection [(J5)] of this section, employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho, which public safety officer is or was a resident of the state of Idaho at the time such officer was killed or disabled in the line of duty shall be admitted to attend any public institution of higher education or public professional-technical college within the state of Idaho without the necessity of paying tuition and fees therefor. Said dependents shall be provided by the institution or college with books, equipment and supplies necessary for pursuit of the dependent's chosen program of enrollment not to exceed the actual cost therefor, or five hundred dollars (\$500), whichever is less, per quarter, semester, intensified semester, or like education period. Said dependent shall be provided with the institution or college's published normal on-campus residential facility housing and meals program for each month the dependent is enrolled full time under this statute and continues to actually reside in such on-campus residential facility. Provided however, that the educational benefits provided for in this section shall not exceed a total of thirty-six (36) months or four (4) nine-month periods; provided further, that such educational benefits shall not extend beyond ten (10) years following the date the dependent receives a high school diploma, a high school equivalency diploma, a special diploma or a certificate of high school completion, or beyond the date such dependent turns thirty (30) years old, whichever comes first.

(2) The dependent shall be required to meet the educational qualifications as such institution of higher education or professional-technical college as established for other prospective students of this state. Application for eligibility under this section shall be made to the state board of education and board of regents of the University of Idaho. The board shall verify the eligibility of the dependent and communicate such eligibility to the dependent and the affected institution or college.

(3) Affected institutions and colleges shall, in their preparation of future budgets, include therein costs resulting from such tuition, fees, housing, meals, books, equipment and supplies for reimbursement thereof from appropriation of state funds.

For the purposes of this section, a public safety officer employed by or volunteering for the state of Idaho or for a political subdivision of the state of Idaho is considered disabled if he or she is unable to perform with reasonable continuity the material duties of any gainful occupation for which he or she is reasonably fitted by education, training and experience.

(4) The scholarships provided in this section shall be available for dependents of public safety officers who were killed or disabled in 1975 or thereafter.

(5) For purposes of this section:

(a) "Public safety officer" means a peace officer or firefighter, or a paramedic, emergency medical technician or first responder as those terms are defined in section 56-1012, Idaho Code.

(b) "Volunteering" means contributing services as a bona fide member of a legally organized law enforcement agency, fire department or licensed emergency medical service provider organization.

(6) The scholarship provided in this section shall not be available unless it is determined that:

(a) The death or disablement of the public safety officer occurred in the performance of the officer's duties;

(b) The death or disablement was not caused by the intentional misconduct of the public safety officer or by such officer's intentional infliction of injury; and

(c) The public safety officer was not voluntarily intoxicated at the time of death.

## **TITLE 39 HEALTH AND SAFETY**

### **39-105. POWERS AND DUTIES OF THE DIRECTOR.** The director shall have the following powers and duties:

(1) All of the rights, powers and duties regarding environmental protection functions vested in the department of health and welfare, and its director, administered by the division of environmental quality, including, but not limited to, those provided by chapters 1, 4, 30, 36, 44, 58, 62, 64, 65, 66, 70, 71, 72 and 74, title 39, Idaho Code. The director shall have all such powers and duties as described in this section as may have been or could have been exercised by his

predecessors in law, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this act, formulate and recommend to the board, rules as may be necessary to deal with problems related to water pollution, air pollution, solid waste disposal, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of the law relating to any purpose which may be necessary and feasible for enforcing the provisions of this act, including, but not limited to, the prevention, control or abatement of environmental pollution or degradation including radionuclides and risks to public health related to any of the powers and duties described in this section. Any such rule may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules adopted by the board, shall have the general supervision of the promotion and protection of the environment of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board promulgated hereunder. For each air quality operating permit issued under title V of the federal clean air act and its implementing regulations, the director shall, consistent with the federal clean air act and its implementing regulations, expressly include a provision stating that compliance with the conditions of the permit shall be deemed compliance with the applicable requirements of the federal clean air act and the title V implementing regulations. The director may develop and issue general permits covering numerous similar sources, as authorized by 40 CFR 70.6(d) as may be amended, and as appropriate.

(b) The enforcement of rules relating to public water supplies and to administer the drinking water loan fund pursuant to chapter 76, title 39, Idaho Code, including making loans to eligible public drinking water systems as defined in the federal safe drinking water act as amended, and to comply with all requirements of the act, 42 U.S.C. 300f, et seq. and regulations promulgated pursuant to the act. This includes, but is not limited to, the development of and implementation of a capacity development strategy to ensure public drinking water systems have the technical, managerial and financial capability to comply with the national primary drinking water regulations; and the enhancement of protection of source waters for public drinking water systems.

(c) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of environmental pollution. All of the rules adopted by the board hereunder shall apply to state institutions.

(d) The supervision and administration of a system to safeguard air quality and for limiting and controlling the emission of air contaminants.

(e) The supervision and administration of a system to safeguard the quality of the waters of this state including, but not limited to, the enforcement of rules relating to the discharge of effluent into the waters of this state and the storage, handling and transportation of solids, liquids, and gases which may cause or contribute to water pollution. For purposes of complying with the clean water act, the director may provide an exemption from additional reductions for those nonpoint sources that meet the applicable reductions set forth in an approved TMDL as defined in chapter 36, title 39, Idaho Code.

(f) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of environmental pollution.

(g) The administration of solid waste disposal site and design review in accordance with the provisions of chapter 74, title 39, Idaho Code, and chapter 4, title 39, Idaho Code, and in particular as follows:

(i) The issuance of a solid waste disposal site certificate in the manner provided in chapter 74, title 39, Idaho Code.

(ii) Provide review and approval regarding the design of solid waste disposal facilities and ground water monitoring systems and approval of all applications for flexible standards as provided in 40 CFR 258, in accordance with the provisions of chapter 74, title 39, Idaho Code.

(iii) Cooperating and coordinating with operational monitoring of solid waste disposal sites by district health departments pursuant to authority established in chapters 4 and 74, title 39, Idaho Code.

(iv) The authority granted to the director pursuant to provisions of this subsection shall be effective upon enactment of chapter 74, title 39, Idaho Code, by the legislature.

(v) The authority to develop and propose rules as necessary to supplement details of compliance with the solid waste facilities act and applicable federal regulations, provided that such regulations shall not conflict

with the provisions of this act nor shall such regulations be more strict than the requirements established in federal law or in the solid waste facilities act.

(h) The establishment, administration and operation of:

(i) A network of environmental monitoring stations, independent of the United States department of energy, within and around the facilities of the Idaho national laboratory to provide authoritative auditing and analysis of emissions, discharges or releases of pollutants to the environment, including the air, water and soil from such facilities; and

(ii) Programs within the department to utilize the data obtained from such monitoring, and any other relevant data, in the enforcement of applicable agreements, statutes and rules pertaining to such facilities and programs to review, analyze and participate in remedial decisions and other proposed actions and projects to ensure the protection of public health and the environment.

The director shall also monitor the implementation of agreements between the United States and the state of Idaho related to the operation and environmental protection obligations of the Idaho national laboratory and provide periodic information to the governor, the attorney general, the legislature and the people of Idaho concerning compliance with such agreements and obligations. The director shall have the power to enter into agreements with the United States department of energy in order to carry out the duties and authorities provided in this subsection.

(i) The enforcement of all laws, rules, regulations, codes and standards relating to environmental protection and health.

(j) The enhancement and protection of source waters of the state pursuant to rules of the board.

(4) The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government including, but not limited to, the federal water pollution control act, for use in or by the state of Idaho in relation to health and environmental protection.

(5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporation for facilities, land, and equipment when such use will have a beneficial or recreational effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

(6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

### **39-106. DIRECTOR -- ADDITIONAL POWERS AND DUTIES -- TRANSFER AND CONTINUATION OF RULES AND OTHER PROCEEDINGS.**

(1) The director shall exercise the following powers and duties in addition to all other powers and duties inherent in the position:

(a) Prescribe such policies and procedures as may be necessary for the administration of the department, the conduct and duties of the employees, the orderly and efficient management of department business, and the custody, use and preservation of department records, papers, books and property belonging to the state.

(b) Employ such personnel as may be deemed necessary, prescribe their duties and fix their compensation within the limits provided by the state personnel system law.

(c) Administer oaths for all purposes required in the discharge of his duties.

(d) Prescribe the qualifications of all personnel of the department on a nonpartisan merit basis, in accordance with the Idaho personnel system law, provided, however, that the administrators in charge of any division of the department shall serve at the pleasure of the director.

(e) Create such units, sections and subdivisions as are or may be necessary for the proper and efficient functioning of the department. [1]

(2) [1] All books, records, papers, documents, property, real and personal, unexpended appropriations and pending business in any way pertaining to the rights, powers and duties regarding environmental protection functions vested in the department of health and welfare and its director, administered by the division of environmental quality, are transferred to and vested in the department and its director. The department established by this act is empowered to acquire, by purchase or exchange, any property which in the judgment of the department is needful for the operation of

the facilities and programs for which it is responsible and to dispose of, by sale or exchange, any property which in the judgment of the department is not needful for the operation of the same.

(3) All rules, standards, plans, licenses, permits, consent orders, compliance schedules, certification, and other agreements pertaining to environmental protection functions administered by the division of environmental quality heretofore adopted or issued by the [I] department of health and welfare and its director are transferred to the department of environmental quality and shall remain in full force and effect until superseded. The terms "department" and "director" in such documents shall mean the department of environmental quality and its director, until such documents are amended.

(4) The department of environmental quality and its director shall be the successor to all rights, powers and duties of the department of health and welfare and its director regarding all rulemaking proceedings, administrative proceedings, contested cases, civil actions, contracts, delegations, authorizations and other matters pertaining to environmental protection functions.

**39-609. DECLARATION OF POLICY.** The legislature hereby declares that infection with human immunodeficiency virus, the virus which causes acquired immune deficiency syndrome (AIDS), is an infectious and communicable disease that endangers the population of this state. The legislature further declares that reporting of HIV infection to public health officials is essential to enable a better understanding of the disease, the scope of exposure, the impact on the community, and the means of control and that efforts to control the disease should include public education, counseling, and voluntary testing and that restrictive enforcement measures should be used only when necessary to protect the public health. It is hereby declared to be the policy of this state that an effective program of preventing AIDS must maintain the confidentiality of patient information and restrict the use of such information solely to public health requirements. This confidentiality is essential so that infected persons are encouraged to reveal their condition to persons who have a legitimate need to know in order that they may assist the patient. Conversely, there is a need for certain individuals to know of the patient's condition so that they may be protected from the disease or protect themselves and others closely associated with them or with the patient. The legislature believes that the balancing of the need to know by certain individuals in relationship to the need to maintain confidentiality to encourage reporting is essential to control the spread of the disease. This balancing cannot be fully codified in statutory law and must be left to the judgment and discretion of public health officials. If in the judgment of public health authorities an imminent danger to the public health exists due to an individual having a disease enumerated in section 39-601, Idaho Code, public health authorities shall take such action as is authorized in this chapter and as is necessary to prevent danger to the public health. Persons who have a legitimate need to know may include health care personnel, doctors, nurses, dentists, persons providing emergency medical services, morticians, lab technicians and school authorities. This is not intended to limit the usual and customary exchange of information between health care providers.

**39-1390. REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES OF INJURIES.**

(1) As soon as treatment permits, any person operating a hospital or other medical treatment facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall notify the local law enforcement agency of that jurisdiction upon the treatment of or request for treatment of a person when the reporting person has reason to believe that the person treated or requesting treatment has received:

(a) Any injury inflicted by means of a firearm; or

(b) Any injury indicating that the person may be a victim of a criminal offense.

(2) The report provided to the law enforcement agency pursuant to subsection (1) of this section shall include the name and address of the injured person, the character and extent of the person's injuries, and the medical basis for making the report.

(3) Any person operating a medical facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall be held harmless from any civil liability for his reasonable compliance with the provisions of this section.

**39-1392a. DEFINITIONS.** The following terms shall have the following meanings when used in this section:

(1) "Emergency medical services personnel" means emergency medical services providers certified by the department of health and welfare pursuant to section 56-1011 et seq., Idaho Code, and ambulance-based clinicians as defined in the rules governing emergency medical services as promulgated by the department of health and welfare.

(2) "Group medical practice" means a partnership, corporation, limited liability company, or other association formed for the purpose of offering health care services through physicians and other licensed or otherwise authorized health care providers who are partners, shareholders, members, employees, or contractors of such group medical practice.

- (3) "Health care organization" means a hospital, in-hospital medical staff committee, medical society, managed care organization, licensed emergency medical service, group medical practice, or skilled nursing facility.
- (4) "Hospital" means a facility in Idaho licensed under sections 39-1301 through 39-1314, Idaho Code, and defined in section 39-1301(a)(1), Idaho Code.
- (5) "In-hospital medical staff committees" means any individual doctor who is a hospital staff member, or any hospital employee, or any group of such doctors and/or hospital employees, who are duly designated a committee by hospital staff bylaws, by action of an organized hospital staff, or by action of the board of directors of a hospital, and which committee is authorized by said bylaws, staff or board of directors, to conduct research or study of hospital patient cases, or of medical questions or problems using data and information from hospital patient cases.
- (6) "Licensed emergency medical service" means an ambulance service or a nontransport service licensed by the department of health and welfare pursuant to section 56-1011 et seq., Idaho Code.
- (7) "Managed care organization" means a public or private person or organization which offers a managed care plan.
- (8) "Managed care plan" means a contract of coverage given to an individual, family or group of covered individuals pursuant to which a member is entitled to receive a defined set of health care benefits through an organized system of health care providers in exchange for defined consideration and which requires the member to use, or creates financial incentives for the member to use, health care providers owned, managed, employed by or under contract with the managed care organization.
- (9) "Medical society" means any duly constituted, authorized and recognized professional society or entity made up of physicians licensed to practice medicine in Idaho, having as its purpose the maintenance of high quality in the standards of health care provided in Idaho or any region or segment of the state, operating with the approval of the Idaho state board of medicine, or any official committee appointed by the Idaho state board of medicine.
- (10) "Patient care records" means written or otherwise recorded, preserved and maintained records of the medical or surgical diagnostic, clinical, or therapeutic care of any patient treated by or under the direction of licensed professional personnel, including emergency medical services personnel, in every health care organization subject to this act, whether as an inpatient or outpatient of the health care organization.
- (11) "Peer review" means the collection, interpretation and analysis of data by a health care organization for the purpose of bettering the system of delivery of health care or to improve the provision of health care or to otherwise reduce patient morbidity and mortality and improve the quality of patient care. Peer review activities by a health care organization include, without limitation:
- (a) Credentialing, privileging or affiliating of health care providers as members of, or providers for, a health care organization;
  - (b) Quality assurance and improvement, patient safety investigations and analysis, patient adverse outcome reviews, and root-cause analysis and investigation activities by a health care organization; and
  - (c) Professional review action, meaning an action or recommendation of a health care organization which is taken or made in the conduct of peer review, that is based on the competence or professional conduct of an individual physician or emergency medical services personnel where such conduct adversely affects or could adversely affect the health or welfare of a patient or the physician's privileges, employment or membership in the health care organization or in the case of emergency medical services personnel, the emergency medical services personnel's scope of practice, employment or membership in the health care organization.
- (12) "Peer review records" means all evidence of interviews, reports, statements, minutes, memoranda, notes, investigative graphs and compilations and the contents thereof, and all physical materials relating to peer review of any health care organization. "Peer review records" does not mean or include patient care records; provided however, that the records relating to the identification of which particular patient care records were selected for, or reviewed, examined or discussed in peer review by a health care organization and the methodology used for selecting such records shall be considered peer review records.
- (13) "Skilled nursing facility" means a facility licensed under chapter 13, title 39, Idaho Code, to provide skilled care to recipients.

**39-1392b. RECORDS CONFIDENTIAL AND PRIVILEGED.** Except as provided in section 39-1392e, Idaho Code, all peer review records shall be confidential and privileged, and shall not be directly or indirectly subject to subpoena or discovery proceedings or be admitted as evidence, nor shall testimony relating thereto be admitted in evidence, or in any action of any kind in any court or before any administrative body, agency or person for any purpose whatsoever. No order of censure, suspension or revocation of licensure, or of a certification in the case of emergency medical services personnel, or health care organization privilege of any physician licensed to practice medicine in Idaho shall be admissible in any civil proceeding seeking damages or other civil relief against the physician, emergency medical services personnel, or health care

organization which may be a defendant in said cause. However, this section shall not prohibit or otherwise affect the use of documents, materials or testimony in health care organization proceedings, nor shall it prohibit or otherwise affect the dissemination, for medical purposes, of information contained in such documents or materials or the conclusions and findings of such health care organization. This section shall not affect the admissibility in evidence in any action or proceeding of the patient care records of any patient.

**39-1392c. IMMUNITY FROM CIVIL LIABILITY.** The furnishing of information or provision of opinions to any health care organization or the receiving and use of such information and opinions shall not subject any health care organization or other person to any liability or action for money damages or other legal or equitable relief. Custodians of such records and persons becoming aware of such data and opinions shall not disclose the same except as authorized by rules adopted by the board of medicine or as otherwise authorized by law. Any health care organization may receive such disclosures, subject to an obligation to preserve the confidential privileged character thereof and subject further to the requirement that such requests shall be made and such use shall be limited to aid the health care organization in conducting peer review.

**39-1392d. PROPERTY OF HEALTH CARE ORGANIZATION.** All peer review records of a health care organization shall be the property of the health care organization concerned which obtains or compiles the same. A health care organization may provide peer review records to persons or entities that perform accreditation, certification or quality assurance review or evaluation of the health care organization. The provision of any peer review records to such persons or entities shall not be deemed to be a waiver by the health care organization of any peer review privilege. Persons and entities receiving peer review records shall preserve the confidential privileged character thereof and such persons and entities shall not be subject to subpoena or order compelling production of peer review records. Nothing in this section shall be deemed to require the health care organization to provide persons or entities with peer review records. A health care organization may provide peer review records to persons or entities with whom the health care organization is affiliated through any common ownership interest or by contract, which affiliation or contract includes the person's or entity's involvement in the peer review process or the provision of any management or administrative services to the health care organization. The provision of peer review records to such persons or entities shall not be deemed to be a waiver by the health care organization of any peer review privilege. Such persons and entities receiving peer review records shall preserve the confidential privileged character thereof, and such persons and entities shall not be subject to any subpoena or order compelling production of peer review records. Nothing in this section shall be deemed to require the health care organization to provide such persons or entities with peer review records. This section shall in no way impair the rights of individuals conducting such research or studies in the exercise of any right or the discharge of any legitimate responsibility which they may have in connection with such research or studies and the results thereof. Nothing in this act shall be construed as restricting or altering the rights of inspection and copying by patients and their duly authorized representatives with respect to such patients' official patient care records, which right of copying and inspection and use of patient care records and their contents in appropriate judicial proceedings is unaltered by this enactment.

**39-1392e. LIMITED EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY.**

(a) In the event of a claim or civil action against a physician, emergency medical services personnel, a hospital or a skilled nursing facility arising out of a particular physician-patient, emergency medical services personnel-patient, hospital-patient relationship, or skilled nursing facility-patient, or which concerns the sufficiency of the delivery of particular health care to a specific patient, any health care organization having information of the kind covered by section 39-1392b, Idaho Code, shall, when interrogated as hereinafter provided, advise any such claimant who is or was such a patient or who, in a representative capacity, acts on behalf of such patient or his heirs, as follows:

- (1) Whether it has conducted or has in progress an inquiry, proceeding or disciplinary matter regarding the quality or propriety of the health care involved, which concerns the subject patient while he was under the care or responsibility of a member of such health care organization or while he was a patient in such hospital or facility; and, if so,
- (2) Whether disposition of any kind resulted or will result therefrom; and, if so,
- (3) What the disposition was, or, if not yet determined, approximately when it will be determined. Such disclosure of information shall be limited to the health care organization's actions in connection with the physician, emergency medical services personnel, hospital or skilled nursing facility against whom such claim is asserted.

(b) Such a claimant shall likewise be entitled to inquire of such health care organization respecting the names and addresses of persons who such health care organization knows to have direct knowledge of the provision of the



health care in question, such inquiry to be limited, however, to the particular patient and the particular times and occasions germane to the specific occurrences on which the claim is based; provided, names shall not be disclosed respecting persons who have gained secondary knowledge or formed opinions respecting the matter solely by participating as witnesses, officials, investigators or otherwise on, for, or in connection with such a health care organization committee, staff, governing board or the state board of medicine.

(c) Such limited, conditional discovery and disclosure of information as provided above shall be allowed only in response to inquiries directed to such a health care organization, and then only if initially propounded by a claimant of the type above described. If the matter is in litigation, inquiry may be by customary means of discovery under the Idaho rules of civil procedure, or, if pending in a United States court, then under discovery as allowed by its applicable rules; provided, pendency of the claim in the United States court or before any other tribunal shall not operate to broaden the exception to the rules of privilege, confidentiality and immunity set down in this act.

(d) Such disclosures may be voluntarily made without judicial order or formal discovery if all disciplined, accused or investigated physicians or emergency medical services personnel consent thereto, and if privileged or confidential information regarding any other patient, physician, emergency medical services personnel, or person will not be disclosed thereby. When the terms of this paragraph are complied with, such voluntary disclosures may be made without civil liability therefor as if in due response to valid judicial process or order.

(e) If any claimant makes such inquiry of any such health care organization, he shall be deemed to have consented to like inquiry and disclosure rights for the benefit of all parties against whom he asserts such claim or brings such suit or action, and all other persons who are parties to such action, and thereafter all such persons and parties may invoke the provisions of this section, seeking and securing specific information as herein provided for the benefit of such claimant, to the same extent as the same is allowed to such claimant.

(f) If any physician, emergency medical services personnel, patient, person, organization or entity whose conduct, care, chart, behavior, health or standards of ethics or professional practice is the subject of investigation, comment, testimony, dispositive order of any kind or other written or verbal utterance or publication or act of any such health care organization or any member or committee thereof in the course of research, study, disciplinary proceeding or investigation of the sort contemplated by this act, makes claim or brings suit on account of such health care organization activity, then, in the defense thereof, confidentiality and privilege shall be deemed waived by the making of such claim, and such health care organization and the members of their staffs and committees shall be allowed to use and resort to such otherwise protected information for the purpose of presenting proof of the facts surrounding such matter, and this provision shall apply whether such claim be for equitable or legal relief or for intentional or unintentional tort of any kind and whether pressed by a patient, physician, emergency medical services personnel, or any other person, but such waiver shall only be effective in connection with the disposition or litigation of such claim, and the court shall, in its discretion, enter appropriate orders protecting, and as fully as it reasonably can do so, preserving the confidentiality of such materials and information.

### **39-1393. NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON PHYSICIAN OR EMERGENCY MEDICAL SERVICES PERSONNEL.**

(1) Any health care organization in this state that is by law required to conduct peer review or which voluntarily formally elects to conduct professional review actions shall notify the board of medicine of professional review actions taken against physicians licensed in Idaho required to be reported as provided in this section. Such reports shall be made to the board of medicine within fifteen (15) days of completion of the professional review action by the health care organization. For emergency medical services personnel, such reports shall be made to the department of health and welfare within fifteen (15) days of completion of the professional review action by the health care organization. Such required reports shall be made on forms approved by the board of medicine for reports concerning physicians, or the department of health and welfare for reports concerning emergency medical services personnel, consistent with the reporting requirements of this section. The reporting obligation shall not be stayed by the filing of any court proceeding unless otherwise ordered by the court.

(2) A health care organization in Idaho shall report to the board of medicine if it:

(a) Takes a professional review action against a physician licensed in Idaho and imposes a sanction of the type included in subsection (3) of this section which lasts longer than thirty (30) days; or

(b) Accepts a voluntary sanction by a physician licensed in Idaho of the type identified in subsection (3) of this section while the physician is under investigation or to avoid investigation by the health care organization relating to the professional competence or professional conduct of the physician or in exchange for the health care

- organization not conducting such an investigation or initiating a professional review action, if the sanction lasts longer than thirty (30) days.
- (3) Professional review action sanctions against a physician which must be reported to the board of medicine pursuant to subsection (2) of this section, whether voluntary or involuntary, shall be:
- (a) Restriction or limitation of privileges;
  - (b) Revocation of privileges;
  - (c) Suspension of privileges;
  - (d) Reduction of privileges;
  - (e) Denial of a request for initial privileges;
  - (f) Submission to monitoring of the physician's physical or mental condition;
  - (g) Submission to monitoring of the physician's delivery of medical services other than to assess and monitor the physician's qualifications for new or additional privileges;
  - (h) Surrender of privileges;
  - (i) Summary suspension or reduction of privileges lasting longer than thirty (30) days;
  - (j) Termination of employment;
  - (k) Suspension of employment lasting longer than thirty (30) days.
- (4) The reporting requirements of this section shall not apply to:
- (a) Actions based on compliance with medical records or confidentiality requirements of a health care organization;
  - (b) Voluntary requests for assistance or monitoring by a physician as part of an educational process to improve physician skills or enhance patient care when unrelated to a professional review action concerning the quality or necessity of patient medical care;
  - (c) Voluntary or involuntary revocation, nonrenewal, denial, reduction, restriction, resignation, or limitation of privileges or employment of a physician based upon factors not directly impacting the quality of patient care or safety of practice of the physician;
  - (d) Adverse actions taken against a physician by a health care organization that is not required by law to conduct peer review and that has not voluntarily formally elected to conduct professional review actions; and
  - (e) The denial of a physician's request for additional privileges or credentials with a health care organization.
- (5) The report to the board of medicine required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.
- (6) A health care organization required to report a professional review action concerning a physician to the board of medicine pursuant to this section shall, if requested by the board of medicine, provide to the board the following:
- (a) A statement of the specific quality of care concerns or professional conduct which resulted in the professional review action sanction;
  - (b) A statement of the specific professional review action sanction; and
  - (c) Any patient care records of the health care organization regarding the care provided by the reported physician. However, the board of medicine may not request or require production of any peer review records from any person or health care organization, including the identification of which particular patient care records were selected for, or reviewed, examined or discussed in any peer review activity of a health care organization, or the method used by the health care organization to select such patient care records for peer review.
- (7) The records lawfully requested by the board of medicine pursuant to subsection (6) of this section shall be provided by the health care organization without a subpoena or court order. If the health care organization fails to comply with the board of medicine's lawful request, the board may petition the district court for an order compelling compliance with the board's request, which shall be granted if disclosure is required by law.
- (8) Professional review action sanctions against emergency medical services personnel, whether voluntary or involuntary, which are the result of any action, conduct, or failure to act which is inconsistent with the professionalism and/or standards established in the rules governing emergency medical services personnel as promulgated by the department of health and welfare must be reported to the department of health and welfare.
- (9) The report to the department of health and welfare required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.
- (10) Any person or health care organization that provides notification as required by law, or in a good faith belief that such notification is required by law, shall be immune from any civil or other liability arising from providing the notification. Such immunity shall likewise pertain to the provision of files, records and information a health care

organization may in good faith provide to the board of medicine pursuant to this section or other applicable law. Such materials provided to the board of medicine shall be subject to disclosure by the board according to chapter 3, title 9, Idaho Code, and available only to the board of medicine and its staff unless and until such matter becomes the subject of formal proceedings by or before the board of medicine or authorized by it.

**39-3406. ROUTINE REFERRAL AND REQUIRED REQUEST -- SEARCH AND NOTIFICATION.**

- (1) Subject to section 39-3408, Idaho Code, a donor or other person authorized to make an anatomical gift under section 39-3404, Idaho Code, may amend or revoke an anatomical gift by:
  - (a) A record signed by:
    - (i) The donor;
    - (ii) The other person; or
    - (iii) Subject to subsection (2) of this section, another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or
  - (b) A later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.
- (2) A record signed pursuant to subsection (1)(a)(iii) of this section must:
  - (a) Be witnessed by at least two (2) adults, at least one (1) of whom is a disinterested witness, who have signed at the request of the donor or the other person; and
  - (b) State that it has been signed and witnessed as provided in paragraph (a) of this subsection.
- (3) Subject to section 39-3408, Idaho Code, a donor or other person authorized to make an anatomical gift under section 39-3404, Idaho Code, may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.
- (4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two (2) adults, at least one (1) of whom is a disinterested witness.
- (5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in subsection (1) of this section.

**TITLE 39 CHAPTER 45. THE MEDICAL CONSENT AND NATURAL DEATH ACT**

**39-4501. PURPOSES -- APPLICATION.**

- (1) The primary purposes of this chapter are:
  - (a) To provide and codify Idaho law concerning consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures, and concerning what constitutes an informed consent for such care, treatment or procedures; and
  - (b) To provide certainty and clarity in the law of medical consent in the furtherance of high standards of health care and its ready availability in proper cases.
- (2) Nothing in this chapter shall be deemed to amend or repeal the provisions of chapter 3 or chapter 4, title 66, Idaho Code, as those provisions pertain to hospitalization of the mentally ill, nor the provisions of chapter 6, title 18, Idaho Code, pertaining to the provision of examinations, prescriptions, devices and informational materials regarding prevention of pregnancy or pertaining to therapeutic abortions and consent to the performance thereof.
- (3) Nothing in this chapter shall be construed to permit or require the provision of health care for a patient in contravention of the patient's stated or implied objection thereto upon religious grounds nor shall anything in this chapter be construed to require the granting of permission for or on behalf of any patient who is not able to act for himself by his parent, spouse or guardian in violation of the religious beliefs of the patient or the patient's parent or spouse.

**39-4502. DEFINITIONS.** As used in this chapter:

- (1) "Artificial life-sustaining procedure" means any medical procedure or intervention that utilizes mechanical means to sustain or supplant a vital function which, when applied to a qualified patient, would serve only to artificially prolong life. "Artificial life-sustaining procedure" does not include the administration of pain management medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain.

- (2) "Artificial nutrition and hydration" means supplying food and water through a conduit, such as a tube or intravenous line, where the recipient is not required to chew or swallow voluntarily, but does not include assisted feeding, such as spoon feeding or bottle feeding.
- (3) "Attending physician" means the physician licensed by the state board of medicine who is selected by, or assigned to, the patient and who has primary responsibility for the treatment and care of the patient.
- (4) "Cardiopulmonary resuscitation" or "CPR" means measures to restore cardiac function and/or to support ventilation in the event of cardiac or respiratory arrest.
- (5) "Comfort care" means treatment and care to provide comfort and cleanliness. "Comfort care" includes:
  - (a) Oral and body hygiene;
  - (b) Reasonable efforts to offer food and fluids orally;
  - (c) Medication, positioning, warmth, appropriate lighting and other measures to relieve pain and suffering; and
  - (d) Privacy and respect for the dignity and humanity of the patient.
- (6) "Consent to care" includes refusal to consent to care and/or withdrawal of care.
- (7) "Directive" or "health care directive" means a document meeting the requirements of section 39-4510(1), Idaho Code, and/or a "Physician Orders for Scope of Treatment (POST)" form signed by a physician.
- (8) "Emergency medical services personnel" means personnel engaged in providing initial emergency medical assistance including, but not limited to, first responders, emergency medical technicians and paramedics.
- (9) "Health care provider" or "provider" means any person or entity licensed, certified, or otherwise authorized by law to administer health care in the ordinary course of business or practice of a profession, including emergency or other medical services personnel.
- (10) "Persistent vegetative state" means an irreversible state that has been medically confirmed by a neurological specialist who is an expert in the examination of nonresponsive individuals in which the person has intact brain stem function but no higher cortical function and no awareness of self or environment.
- (11) "Physician" means a person who holds a current active license to practice medicine and surgery or osteopathic medicine and surgery in Idaho and is in good standing with no restriction upon or actions taken against his or her license.
- (12) "Physician orders for scope of treatment (POST) form" means a standardized form containing orders by a physician that states a person's treatment wishes.
- (13) "Physician orders for scope of treatment (POST) identification device" means standardized jewelry which can be worn around the wrist, neck or ankle, and which has been approved by the department of health and welfare.
- (14) "Terminal condition" means an incurable or irreversible condition which, without the administration of life-sustaining procedures, will, in the opinion of a physician, result in death if it runs its usual course.

**39-4503. PERSONS WHO MAY CONSENT TO THEIR OWN CARE.** Any person of ordinary intelligence and awareness sufficient for him or her generally to comprehend the need for, the nature of and the significant risks ordinarily inherent in, any contemplated hospital, medical, dental or surgical care, treatment or procedure is competent to consent thereto on his or her own behalf. Any health care provider may provide such health care and services in reliance upon such a consent if the consenting person appears to the health care provider securing the consent to possess such requisite intelligence and awareness at the time of giving the consent.

**39-4504. PERSONS WHO MAY GIVE CONSENT TO CARE FOR OTHERS.**

- (1) Consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures to any person who is not then capable of giving such consent as provided in this chapter or who is a minor or incompetent person, may be given or refused in the order of priority set forth hereafter unless the patient is a competent person who has refused to give such consent, and provided further that this subsection shall not be deemed to authorize any person to override the express refusal by a competent patient to give such consent himself:
  - (a) The legal guardian of such person;
  - (b) The person named in a "Living Will and Durable Power of Attorney for Health Care" pursuant to section 39-4510, Idaho Code, or a similar document authorized by this chapter;
  - (c) If married, the spouse of such person;
  - (d) A parent of such person;
  - (e) Any relative representing himself or herself to be an appropriate, responsible person to act under the circumstances;
  - (f) Any other competent individual representing himself or herself to be responsible for the health care of such person; or

- (g) If the subject person presents a medical emergency or there is a substantial likelihood of his or her life or health being seriously endangered by withholding or delay in the rendering of such hospital, medical, dental or surgical care to such patient and the subject person has not communicated and is unable to communicate his or her treatment wishes, the attending physician or dentist may, in his or her discretion, authorize and/or provide such care, treatment or procedure as he or she deems appropriate, and all persons, agencies and institutions thereafter furnishing the same, including such physician or dentist, may proceed as if informed, valid consent therefor had been otherwise duly given.
- (2) No person who, in good faith, gives consent or authorization for the provision of hospital, medical, dental or surgical care, treatment or procedures to another as provided by this chapter shall be subject to civil liability therefor.
- (3) No health care provider who, in good faith, obtains consent from a person pursuant to either section 39-4503 or 39-4504(1), Idaho Code, shall be subject to civil liability therefor.

### **39-4505. BLOOD TESTING.**

- (1) A physician may consent to ordering tests of a patient's or a deceased person's blood or other body fluids for the presence of blood-transmitted or body fluid-transmitted viruses or diseases without the prior consent of the patient if:
- (a) There has been or is likely to be a significant exposure to the patient's or a deceased person's blood or body fluids by a person providing emergency or medical services to such patient which may result in the transmittal of a virus or disease; and
  - (b) The patient is unconscious or incapable of giving informed consent and the physician is unable to obtain consent pursuant to section 39-4504, Idaho Code.
- (2) The department of health and welfare shall promulgate rules identifying the blood-transmitted or body fluid-transmitted viruses or diseases for which blood tests or body fluid tests can be ordered under this section and defining the term "significant exposure" as provided in this section.
- (3) Results of tests conducted under this section which confirm the presence of a blood-transmitted or body fluid-transmitted virus or disease shall be reported to the director of the department of health and welfare in the name of the patient or deceased person. The department records containing such test results shall be used only by public health officials who must conduct investigations. The exposed person shall only be informed of the results of the test and shall not be informed of the name of the patient or deceased person. Protocols shall be established by hospitals to maintain confidentiality while disseminating the necessary test result information to persons who may have a significant exposure to blood or other body fluids and to maintain records of such tests to preserve the confidentiality of the test results.
- (4) Any person who willfully or maliciously discloses the results of a test conducted under this section, except pursuant to a written authorization by the person whose blood was tested or by such person's authorized representative, or as otherwise authorized by law, shall be guilty of a misdemeanor.

**39-4506. SUFFICIENCY OF CONSENT.** Consent, or refusal to consent, for the furnishing of hospital, medical, dental or surgical care, treatment or procedures shall be valid in all respects if the person giving or refusing the consent is sufficiently aware of pertinent facts respecting the need for, the nature of, and the significant risks ordinarily attendant upon, such a patient receiving such care, as to permit the giving or withholding of such consent to be a reasonably informed decision. Any such consent shall be deemed valid and so informed if the physician or dentist to whom it is given or by whom it is secured has made such disclosures and given such advice respecting pertinent facts and considerations as would ordinarily be made and given under the same or similar circumstances, by a like physician or dentist of good standing practicing in the same community. As used in this section, the term "in the same community" refers to that geographic area ordinarily served by the licensed general hospital at or nearest to which such consent is given.

**39-4507. FORM OF CONSENT.** It is not essential to the validity of any consent for the furnishing of hospital, medical, dental or surgical care, treatment or procedures that the consent be in writing or any other specific form of expression; provided however, when the giving of such consent is recited or documented in writing and expressly authorizes the care, treatment or procedures to be furnished, and when such writing or form has been executed or initialed by a person competent to give such consent for himself or another, such written consent, in the absence of convincing proof that it was secured maliciously or by fraud, is presumed to be valid for the furnishing of such care, treatment or procedures, and the advice and disclosures of the attending physician or dentist, as well as the level of informed awareness of the giver of such consent, shall be presumed to be sufficient.

**39-4508. RESPONSIBILITY FOR CONSENT AND DOCUMENTATION.** Obtaining consent for health care is the duty of the attending physician or dentist or of another physician or dentist acting on his or her behalf or actually providing the contemplated care, treatment or procedure; provided however, a licensed hospital and any medical or dental office employee, acting with the approval of such an attending or other physician or dentist, may perform the ministerial act of documenting such consent by securing the completion and execution of a form or statement in which the giving of consent for such care is documented by or on behalf of the patient. In performing such a ministerial act, the hospital or medical or dental office employee shall not be deemed to have engaged in the practice of medicine or dentistry.

**39-4509. STATEMENT OF POLICY – DEFINITION.** For purposes of sections 39-4509 through 39-4515, Idaho Code:

- (1) The legislature recognizes the established common law and the fundamental right of adult persons to control the decisions relating to the rendering of their medical care, including the decision to have life-sustaining procedures withheld or withdrawn. The legislature further finds that modern medical technology has made possible the artificial prolongation of human life beyond natural limits. The legislature further finds that patients are sometimes unable to express their desire to withhold or withdraw such artificial life prolongation procedures which provide nothing medically necessary or beneficial to the patient because of the patient's inability to communicate with the physician.
- (2) In recognition of the dignity and privacy which patients have a right to expect, the legislature hereby declares that the laws of this state shall recognize the right of a competent person to have his or her wishes for medical treatment and for the withdrawal of artificial life-sustaining procedures carried out even though that person is no longer able to communicate with the physician.
- (3) It is the intent of the legislature to establish an effective means for such communication. It is not the intent of the legislature that the procedures described in sections 39-4509 through 39-4515, Idaho Code, are the only effective means of such communication, and nothing in sections 39-4509 through 39-4515, Idaho Code, shall impair or supersede any legal right or legal responsibility which a person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. Any authentic expression of a person's wishes with respect to health care should be honored.
- (4) "Competent person" means any emancipated minor or person eighteen (18) or more years of age who is of sound mind.

**39-4510. LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE.**

(1) Any competent person may execute a document known as a "Living Will and Durable Power of Attorney for Health Care." Such document shall be in substantially the following form, or in another form that contains the elements set forth in this chapter. Any portions of the "Living Will and Durable Power of Attorney for Health Care" which are left blank by the person executing the document shall be deemed to be intentional and shall not invalidate the document.

**LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

Date of Directive: \_\_\_\_\_

Name of person executing Directive: \_\_\_\_\_

Address of person executing Directive: \_\_\_\_\_

**A LIVING WILL**

**A Directive to Withhold or to Provide Treatment**

1. I willfully and voluntarily make known my desire that my life shall not be prolonged artificially under the circumstances set forth below. This Directive shall only be effective if I am unable to communicate my instructions and:

a. I have an incurable or irreversible injury, disease, illness or condition, and a medical doctor who has examined me has certified:

1. That such injury, disease, illness or condition is terminal; and
2. That the application of artificial life-sustaining procedures would serve only to prolong artificially my life; and
3. That my death is imminent, whether or not artificial life-sustaining procedures are utilized; or

b. I have been diagnosed as being in a persistent vegetative state.

In such event, I direct that the following marked expression of my intent be followed, and that I receive any medical treatment or care that may be required to keep me free of pain or distress.

Check one box and initial the line after such box:

☐ \_\_\_\_\_ I direct that all medical treatment, care and procedures necessary to restore my health and sustain my life be provided to me. Nutrition and hydration, whether artificial or nonartificial, shall not be withheld or withdrawn from me if I would likely die primarily from malnutrition or dehydration rather than from my injury, disease, illness or condition.

OR

☐ \_\_\_\_\_ I direct that all medical treatment, care and procedures, including artificial life-sustaining procedures, be withheld or withdrawn, except that nutrition and hydration, whether artificial or nonartificial shall not be withheld or withdrawn from me if, as a result, I would likely die primarily from malnutrition or dehydration rather than from my injury, disease, illness or condition, as follows: (If none of the following boxes are checked and initialed, then both nutrition and hydration, of any nature, whether artificial or nonartificial, shall be administered.)

Check one box and initial the line after such box:

- A. ☐ \_ Only hydration of any nature, whether artificial or nonartificial, shall be administered;
- B. ☐ \_ Only nutrition, of any nature, whether artificial or nonartificial, shall be administered;
- C. ☐ \_ Both nutrition and hydration, of any nature, whether artificial or nonartificial shall be administered.

OR

☐ \_ I direct that all medical treatment, care and procedures be withheld or withdrawn, including withdrawal of the administration of artificial nutrition and hydration.

2. If I have been diagnosed as pregnant, this Directive shall have no forceduring the course of my pregnancy.
3. I understand the full importance of this Directive and am mentally competent to make this Directive. No participant in the making of this Directive or in its being carried into effect shall be held responsible in any way for complying with my directions.
4. Check one box and initial the line after such box:

☐ \_\_\_\_\_ I have discussed these decisions with my physician and have also completed a Physician Orders for Scope of Treatment (POST) form that contains directions that may be more specific than, but are compatible with, this Directive. I hereby approve of those orders and incorporate them herein as if fully set forth.

OR

☐ \_\_\_\_\_ I have not completed a Physician Orders for Scope of Treatment (POST) form. If a POST form is later signed by my physician, then this living will shall be deemed modified to be compatible with the terms of the POST form.

#### A DURABLE POWER OF ATTORNEY FOR HEALTH CARE

1. DESIGNATION OF HEALTH CARE AGENT. None of the following may be designated as your agent: (1) your treating health care provider; (2) a nonrelative employee of your treating health care provider; (3) an operator of a community care facility; or (4) a nonrelative employee of an operator of a community care facility. If the agent or an alternate agent designated in this Directive is my spouse, and our marriage is thereafter dissolved, such designation shall be thereupon revoked.

I do hereby designate and appoint the following individual as my attorney in fact (agent) to make health care decisions for me as authorized in this Directive. (Insert name, address and telephone number of one individual only as your agent to make health care decisions for you.)

Name of Health Care Agent: \_\_\_\_\_

Address of Health Care Agent: \_\_\_\_\_

Telephone Number of Health Care Agent: \_\_\_\_\_

For the purposes of this Directive, "health care decision" means consent, refusal of consent, or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat an individual's physical condition.

2. **CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.** By this portion of this Directive, I create a durable power of attorney for health care. This power of attorney shall not be affected by my subsequent incapacity. This power shall be effective only when I am unable to communicate rationally.

3. **GENERAL STATEMENT OF AUTHORITY GRANTED.** I hereby grant to my agent full power and authority to make health care decisions for me to the same extent that I could make such decisions for myself if I had the capacity to do so. In exercising this authority, my agent shall make health care decisions that are consistent with my desires as stated in this Directive or otherwise made known to my agent including, but not limited to, my desires concerning obtaining or refusing or withdrawing artificial life-sustaining care, treatment, services and procedures, including such desires set forth in a living will, Physician Orders for Scope of Treatment (POST) form, or similar document executed by me, if any. (If you want to limit the authority of your agent to make health care decisions for you, you can state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and Limitations") below. You can indicate your desires by including a statement of your desires in the same paragraph.)

4. **STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS.** (Your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, state your desires in the space provided below. You should consider whether you want to include a statement of your desires concerning artificial life-sustaining care, treatment, services and procedures. You can also include a statement of your desires concerning other matters relating to your health care, including a list of one or more persons whom you designate to be able to receive medical information about you and/or to be allowed to visit you in a medical institution. You can also make your desires known to your agent by discussing your desires with your agent or by some other means. If there are any types of treatment that you do not want to be used, you should state them in the space below. If you want to limit in any other way the authority given your agent by this Directive, you should state the limits in the space below. If you do not state any limits, your agent will have broad powers to make health care decisions for you, except to the extent that there are limits provided by law.) In exercising the authority under this durable power of attorney for health care, my agent shall act consistently with my desires as stated below and is subject to the special provisions and limitations stated in my Physician Orders for Scope of Treatment (POST) form, a living will, or similar document executed by me, if any. Additional statement of desires, special provisions, and limitations: \_\_\_\_\_

(You may attach additional pages or documents if you need more space to complete your statement.)

5. **INSPECTION AND DISCLOSURE OF INFORMATION RELATING TO MY PHYSICAL OR MENTAL HEALTH.**

A. **General Grant of Power and Authority.** Subject to any limitations in this Directive, my agent has the power and authority to do all of the following: (1) Request, review and receive any information, verbal or written, regarding my physical or mental health including, but not limited to, medical and hospital records; (2) Execute on my behalf any releases or other documents that may be required in order to obtain this information; (3) Consent to the disclosure of this information; and (4) Consent to the donation of any of my organs for medical purposes. (If you want to limit the authority of your agent to receive and disclose information relating to your health, you must state the limitations in paragraph 4 ("Statement of Desires, Special Provisions, and imitations") above.)

B. **HIPAA Release Authority.** My agent shall be treated as I would be with respect to my rights regarding the use and disclosure of my individually identifiable health information or other medical records. This release authority applies to any information governed by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d and 45 CFR 160 through 164. I authorize any physician, health care professional, dentist, health plan, hospital, clinic, laboratory, pharmacy, or other covered health care provider, any insurance company, and the



Medical Information Bureau, Inc. or other health care clearinghouse that has provided treatment or services to me, or that has paid for or is seeking payment from me for such services, to give, disclose and release to my agent, without restriction, all of my individually identifiable health information and medical records regarding any past, present or future medical or mental health condition, including all information relating to the diagnosis of HIV/AIDS, sexually transmitted diseases, mental illness, and drug or alcohol abuse. The authority given my agent shall supersede any other agreement that I may have made with my health care providers to restrict access to or disclosure of my individually identifiable health information. The authority given my agent has no expiration date and shall expire only in the event that I revoke the authority in writing and deliver it to my health care provider.

6. **SIGNING DOCUMENTS, WAIVERS AND RELEASES.** Where necessary to implement the health care decisions that my agent is authorized by this Directive to make, my agent has the power and authority to execute on my behalf all of the following: (a) Documents titled, or purporting to be, a "Refusal to Permit Treatment" and/or a "Leaving Hospital Against Medical Advice"; and (b) Any necessary waiver or release from liability required by a hospital or physician.

7. **DESIGNATION OF ALTERNATE AGENTS.** (You are not required to designate any alternate agents but you may do so. Any alternate agent you designate will be able to make the same health care decisions as the agent you designated in paragraph 1 above, in the event that agent is unable or ineligible to act as your agent. If an alternate agent you designate is your spouse, he or she becomes ineligible to act as your agent if your marriage is thereafter dissolved.) If the person designated as my agent in paragraph 1 is not available or becomes ineligible to act as my agent to make a health care decision for me or loses the mental capacity to make health care decisions for me, or if I revoke that person's appointment or authority to act as my agent to make health care decisions for me, then I designate and appoint the following persons to serve as my agent to make health care decisions for me as authorized in this Directive, such persons to serve in the order listed below:

A. First Alternate Agent:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

B. Second Alternate Agent:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

C. Third Alternate Agent:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

8. **PRIOR DESIGNATIONS REVOKED.** I revoke any prior durable power of attorney for health care.

**DATE AND SIGNATURE OF PRINCIPAL.** (You must date and sign this Living Will and Durable Power of Attorney for Health Care.)

I sign my name to this Statutory Form Living Will and Durable Power of Attorney for Health Care on the date set forth at the beginning of this Form at \_\_\_\_\_ (City, State) \_\_\_\_\_

\_\_\_\_\_  
Signature

(2) A health care directive meeting the requirements of subsection (1) of this section may be registered with the secretary of state pursuant to the provisions of section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.

### **39-4511. REVOCATION.**

- (1) A living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form may be revoked at any time by the maker thereof by any of the following methods:
  - (a) By being canceled, defaced, obliterated or burned, torn, or otherwise destroyed by the maker thereof, or by some person in his presence and by his direction;
  - (b) By a written, signed revocation of the maker thereof expressing his intent to revoke; or
  - (c) By an oral expression by the maker thereof expressing his intent to revoke.
- (2) The maker of the revoked living will and durable power of attorney for health care is responsible for notifying his physician of the revocation.
- (3) There shall be no criminal or civil liability on the part of any person for the failure to act upon a revocation of a living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form made pursuant to this section unless that person has actual knowledge of the revocation.

**39-4512. EXECUTION OF LIVING WILL AND DURABLE POWER OF ATTORNEY FOR HEALTH CARE.** A "Living Will and Durable Power of Attorney for Health Care" shall be effective from the date of execution unless otherwise revoked. Nothing in this chapter shall be construed to prevent a competent person from reexecuting a "Living Will and Durable Power of Attorney for Health Care" at any time.

### **39-4512A. PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST).**

- (1) A physician orders for scope of treatment (POST) form is appropriate in cases where a patient has an incurable or irreversible injury, disease, illness or condition, or where a patient is in a persistent vegetative state. A POST form is also appropriate if such conditions are anticipated.
- (2) The POST form shall be effective from the date of execution unless otherwise revoked. If there is a conflict between the person's expressed directives, the POST form, and the decisions of the durable power of attorney representative or surrogate, the orders contained in the POST form shall be followed.
- (3) The attending physician shall, upon request of the patient, provide the patient with a copy of the POST form, discuss with the patient the form's content and ramifications and treatment options, and assist the patient in the completion of the form.
- (4) The attending physician shall review the POST form:
  - (a) Each time the physician examines the patient, or at least every seven (7) days, for patients who are hospitalized; and
  - (b) Each time the patient is transferred from one (1) care setting or care level to another; and
  - (c) Any time there is a substantial change in the patient's health status; and
  - (d) Any time the patient's treatment preferences change.

Failure to meet these review requirements does not affect the POST form's validity or enforceability. As conditions warrant, the physician may issue a superseding POST form. The physician shall, whenever practical, consult with the patient or the patient's agent.

- (5) A patient who has completed a POST form signed by a physician may wear a POST identification device as provided in section 39-4502(13), Idaho Code.
- (6) The department of health and welfare shall develop the POST form.

### **39-4512B. ADHERENCE TO PHYSICIAN ORDERS FOR SCOPE OF TREATMENT (POST) PROTOCOL.**

- (1) Health care providers and emergency medical services personnel shall comply with a patient's physician orders for scope of treatment (POST) instruction when presented with a completed POST form signed by a physician or when a patient is wearing a proper POST identification device pursuant to section 39-4512A(5), Idaho Code.
- (2) A completed POST form is deemed to meet the requirements of "Do Not Resuscitate (DNR)" forms of all Idaho health care facilities. Health care providers and emergency medical services personnel shall not require the completion of other forms in order for the patient's wishes to be respected.

**39-4512C. DUTY TO INSPECT.** Health care providers and emergency medical services personnel shall make reasonable efforts to inquire as to whether the patient has completed a physician orders for scope of treatment (POST) form and inspect the patient for a POST identification device when presented with a situation calling for artificial life-sustaining treatment not caused by severe trauma or involving mass casualties and with no indication of homicide or suicide.

### **39-4513. IMMUNITY.**

- (1) No emergency medical services personnel, health care provider, facility, or individual employed by, acting as the agent of, or under contract with any such health care provider or facility shall be civilly or criminally liable or subject to discipline for unprofessional conduct for acts or omissions carried out or performed in good faith pursuant to the directives in a facially valid POST form or living will or by the holder of a facially valid durable power of attorney or directive for health care.
- (2) Any physician or other health care provider who for ethical or professional reasons is incapable or unwilling to conform to the desires of the patient as expressed by the procedures set forth in this chapter may withdraw without incurring any civil or criminal liability provided the physician or other health care provider, before withdrawal of his or her participation, makes a good faith effort to assist the patient in obtaining the services of another physician or other health care provider who is willing to provide care for the patient in accordance with the patient's expressed or documented wishes.
- (3) No person who exercises the responsibilities of a durable power of attorney for health care in good faith shall be subject to civil or criminal liability as a result.
- (4) Neither the registration of a health care directive in the health care directive registry under section 39-4515, Idaho Code, nor the revocation of such a directive requires a health care provider to request information from that registry. The decision of a health care provider to request or not to request a health care directive document from the registry shall be immune from civil or criminal liability. A health care provider who in good faith acts in reliance on a facially valid health care directive received from the health care directive registry shall be immune from civil or criminal liability for those acts done in such reliance.
- (5) Health care providers and emergency medical services personnel may disregard the POST form or a POST identification device:
  - (a) If they believe in good faith that the order has been revoked; or
  - (b) To avoid oral or physical confrontation; or
  - (c) If ordered to do so by the attending physician.

### **39-4514. GENERAL PROVISIONS.**

- (1) Application. This chapter shall have no effect or be in any manner construed to apply to persons not executing a living will and durable power of attorney for health care or POST form pursuant to this chapter nor shall it in any manner affect the rights of any such persons or of others acting for or on behalf of such persons to give or refuse to give consent or withhold consent for any medical care, neither shall this chapter be construed to affect chapter 3 or chapter 4, title 66, Idaho Code, in any manner.
- (2) Euthanasia, mercy killing, or assisted suicide. This chapter does not make legal, and in no way condones, euthanasia, mercy killing, or assisted suicide or permit an affirmative or deliberate act or omission to end life, other than to allow the natural process of dying.
- (3) Comfort care. Individuals caring for a patient for whom artificial life-sustaining procedures or artificially administered nutrition and hydration are withheld or withdrawn shall provide comfort care as defined in section 39-4502, Idaho Code.
- (4) Presumed consent to resuscitation. There is a presumption in favor of consent to cardiopulmonary resuscitation (CPR) unless:
  - (a) A completed living will for that person is in effect, pursuant to section 39-4510, Idaho Code, and the person is in a terminal condition or persistent vegetative state; or
  - (b) A completed durable power of attorney for health care for that person is in effect, pursuant to section 39-4510, Idaho Code, in which the person has indicated that he or she does not wish to receive cardiopulmonary resuscitation, or his or her representative has determined that the person would not wish to receive cardiopulmonary resuscitation; or
  - (c) The patient has a completed physician orders for scope of treatment (POST) form indicating otherwise and/or proper POST identification pursuant to section 39-4502(13), Idaho Code.
- (5) Futile care. Nothing in this chapter shall be construed to require medical treatment that is medically inappropriate or futile.
- (6) Existing directives and directives from other states. A health care directive executed prior to July 1, 2007, but which was in the living will, durable power of attorney for health care, DNR, or POST form pursuant to prior Idaho law at the time of execution, or in another form that contained the elements set forth in this chapter at the time of execution, shall be deemed to be in compliance with this chapter. Health care directives or similar documents executed in another state that substantially comply with this chapter shall be deemed to be in compliance with this chapter.

- (7) Insurance.
  - (a) The making of a living will and/or durable power of attorney for health care or physician orders for scope of treatment (POST) form pursuant to this chapter shall not restrict, inhibit or impair in any manner the sale, procurement or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired or invalidated in any manner by the withholding or withdrawal of artificial life-sustaining procedures from an insured patient, notwithstanding any term of the policy to the contrary.
  - (b) No physician, health care facility or other health care provider and no health care service plan, insurer issuing disability insurance, self-insured employee plan, welfare benefit plan or nonprofit hospital service plan shall require any person to execute a living will and durable power of attorney for health care or physician orders for scope of treatment (POST) form as a condition for being insured for, or receiving, health care services.
- (8) Portability and copies.
  - (a) A completed physician orders for scope of treatment (POST) form signed by a physician shall be transferred with the patient to, and be effective in, all care settings including, but not limited to, home care, ambulance or other transport, hospital, residential care facility, and hospice care. The POST form shall remain in effect until such time as there is a valid revocation pursuant to section 39-4511, Idaho Code, or new orders are issued by a physician.
  - (b) A photostatic, facsimile or electronic copy of a valid physician orders for scope of treatment (POST) form may be treated as an original by a health care provider or by an institution receiving or treating a patient.
- (9) Registration. A directive or the revocation of a directive meeting the requirements of this chapter may be registered with the secretary of state pursuant to section 39-4515, Idaho Code. Failure to register the health care directive shall not affect the validity of the health care directive.
- (10) Rulemaking authority.
  - (a) The department of health and welfare shall adopt those rules and protocols necessary to administer the provisions of this chapter.
  - (b) In the adoption of a physician orders for scope of treatment (POST) or DNR protocol, the department shall adopt standardized POST identification to be used statewide.

#### **39-4515. HEALTH CARE DIRECTIVE REGISTRY.**

- (1) The secretary of state shall create and maintain a health care directive registry. The health care directive registry shall be accessible through a website maintained by the secretary of state. The information contained in such registry shall include: the full name of the person executing the health care directive as stated in the directive, a file identification number unique to the person executing the directive, and the date the directive was executed.
- (2) A person may register with the secretary of state a health care directive or a revocation of a health care directive by submitting the directive or revocation, completing and submitting an informational registration form as required by the secretary of state, and paying the secretary of state the fee which the secretary of state may require for registering a health care directive. The person who submits a document for registration pursuant to this section shall provide a return address.
- (3) The secretary of state may charge and collect a fee not to exceed ten dollars (\$10.00) for the filing of a health care directive. All fees collected for the filing of a health care directive shall be deposited into the health care directive registry fund. No fee shall be charged for revoking a health care directive.
- (4) Upon receipt of the registration form, the secretary of state shall:
  - (a) Create a digital reproduction of the health care directive or the revocation document and the informational registration form;
  - (b) Enter these digitally reproduced documents into the health care directive registry database;
  - (c) Assign each entry a unique identification file number and password;
  - (d) Return the original health care directive or revocation thereof to the person who submitted the document;
  - (e) Provide to the person who submitted the document a printed record of the information entered into the database, the identification file number under which it was entered, the password assigned to that identification file number; and
  - (f) Provide to the person who submitted the document a wallet-sized card that contains the name of the person executing the health care directive as it appears on the document, the identification file number assigned to the registration, and the password assigned to the identification file number.
- (5) The registry established under this section shall be accessible only by entering the identification file number and the assigned password on the health care directive registry website.

- (6) The secretary of state and those granted access to the health care directive registry shall use information contained in the registry only for purposes prescribed in this section. No person granted access to the registry shall use the information for commercial solicitations or in any fraudulent or improper way. Any commercial solicitation, fraudulent or improper use of information contained in the registry shall constitute a violation of this section and a violation of the Idaho consumer protection act.
- (7) The secretary of state is not required to review a health care directive or revocation thereof to ensure that the document complies with any applicable and statutory requirements. Entry of a document into the health care directive registry pursuant to this section does not create a presumption favoring the validity of the document.
- (8) The secretary of state shall delete a health care directive and the informational registration form from the health care directive registry when the secretary of state receives:
- (a) A revocation of a health care directive signed by the maker thereof or that person's legal representative along with the identification file number and assigned password; or
  - (b) Verification from the bureau of health policy and vital statistics of the Idaho department of health and welfare that the person who executed the health care directive is deceased. The deletion under this paragraph shall be performed not less than once every two (2) years. The bureau of health policy and vital statistics of the Idaho department of health and welfare shall share its registry of death certificates with the secretary of state in order to permit the secretary of state to fulfill its responsibilities under this paragraph.
- (9) Neither the secretary of state nor the state of Idaho shall be subject to civil liability for any claims or demands arising out of the administration or operation of the health care directive registry.
- (10) There is hereby created in the state treasury the health care directive registry fund, the moneys of which shall be continuously appropriated, administered by the secretary of state and used to support, promote and maintain the health care directive registry. The fund shall consist of fees paid by persons registering health care directives under this section and income from investment from the fund, gifts, grants, bequests and other forms of voluntary donations. On notice from the secretary of state, the state treasurer shall invest and divest moneys in the fund, and moneys earned from such investment shall be credited to the fund.

**39-8201. TITLE.** This chapter shall be known as the "Idaho Safe Haven Act."

**39-8202. DEFINITIONS.** As used in this chapter, the following terms shall mean:

- (1) "Custodial parent," for the purposes of this chapter, means, in the absence of a court decree, the parent with whom the child resides.
- (2) "Safe haven" means:
  - (a) Hospitals licensed in the state of Idaho;
  - (b) Licensed physicians in the state of Idaho and staff working at their offices and clinics;
  - (c) Advanced practice professional nurses including certified nurse-midwives, clinical nurse specialists, nurse practitioners and certified registered nurse anesthetists licensed or registered pursuant to chapter 14, title 54, Idaho Code;
  - (d) Physician assistants licensed pursuant to chapter 18, title 54, Idaho Code.
  - (e) Medical personnel when making an emergency response to a "911" call from a custodial parent, for the purpose of taking temporary physical custody of a child pursuant to the provisions of this act. For purposes of this act, "medical personnel" shall include those individuals certified by the department of health and welfare as:
    - (i) First responders;
    - (ii) Emergency medical technicians - basic;
    - (iii) Advanced emergency medical technicians - ambulance;
    - (iv) Emergency medical technicians - intermediate; and
    - (v) Emergency medical technicians - paramedic.

**39-8203. EMERGENCY CUSTODY OF CERTAIN ABANDONED CHILDREN – CONFIDENTIALITY -- IMMUNITY.**

- (1) A safe haven shall take temporary physical custody of a child, without court order, if the child is personally delivered to a safe haven, provided that:
  - (a) The child is no more than thirty (30) days of age;
  - (b) The custodial parent delivers the child to the safe haven; and
  - (c) The custodial parent does not express an intent to return for the child.

(2) If a safe haven takes temporary physical custody of a child pursuant to subsection (1) of this section, the safe haven shall:

(a) Perform any act necessary, in accordance with generally accepted standards of professional practice, to protect, preserve, or aid the physical health and safety of the child during the temporary physical custody including, but not limited to, delivering the child to a hospital for care or treatment; and

(b) Immediately notify a peace officer or other person appointed by the court of the abandonment.

(3) The safe haven shall not inquire as to the identity of the custodial parent and, if the identity of a parent is known to the safe haven, the safe haven shall keep all information as to the identity confidential. The custodial parent leaving the child shall not be required to provide any information to the safe haven but may voluntarily provide information including, but not limited to, medical history of the parent(s) or the child.

(4) A safe haven with responsibility for performing duties under this section, and any employee, doctor, or other personnel working at the safe haven, are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith in receiving a child and performing duties under this section.

(5) A custodial parent may leave a child with a safe haven in this state without being subjected to prosecution for abandonment pursuant to the provisions of title 18, Idaho Code, provided that the child was no more than thirty (30) days of age when it was left at the safe haven, as determined within a reasonable degree of medical certainty.

### **39-8204. PROTECTIVE CUSTODY -- PLACEMENT -- IMMUNITY.**

(1) Upon notification by a safe haven that a child has been abandoned pursuant to the provisions of this chapter, a peace officer or other person appointed by the court shall take protective custody of the child and shall immediately deliver the child to the care, control and custody of the department of health and welfare. Provided however, where the child requires further medical evaluation, care or treatment, the child shall be left in the care of a hospital and the peace officer or other person appointed by the court shall notify the court and prosecutor of the action taken and the location of the child so that a shelter care hearing may be held.

(2) The department of health and welfare shall place an abandoned child with a potential adoptive parent as soon as possible.

(3) A peace officer or other person appointed by the court who takes a child into custody under this section, shall not be held liable either criminally or civilly unless the action of taking the child was exercised in bad faith or in violation of the provisions of this chapter.

## **TITLE 46 MILITIA AND MILITARY AFFAIRS**

**46-1003. POLICY AND PURPOSES** It is the policy of this state to plan and prepare for disasters and emergencies resulting from natural or man-made causes, enemy attack, terrorism, sabotage or other hostile action, and to implement this policy, it is found necessary:

(1) To create a bureau of homeland security, to authorize the creation of local organizations for disaster preparedness in the political subdivisions of the state, and to authorize the state and political subdivisions to execute agreements and to cooperate with the federal government and the governments of other states.

(2) To prevent and reduce damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action.

(3) To prepare assistance for prompt and efficient search, rescue, care, and treatment of persons injured, victimized or threatened by disaster.

(4) To provide for rapid and orderly restoration and rehabilitation of persons and property affected by disasters.

(5) To prescribe the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to and recovery from disasters.

(6) To authorize and encourage cooperation in disaster prevention, preparedness, response and recovery.

(7) To provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by all state agencies, political subdivisions, and interstate, federal-state and Canadian activities in which the state and its political subdivisions may participate.

(8) To provide a disaster management system embodying all aspects of predisaster preparedness and postdisaster response.

(9) To provide for the payment of obligations and expenses incurred by the state of Idaho through the bureau of homeland security during a declared state of disaster emergency.

**46-1004. BUREAU OF HOMELAND SECURITY CREATED.** Within the military division of the office of governor, a bureau of homeland security is established.

**46-1005. CHIEF OF BUREAU – APPOINTMENT -- COMPENSATION.** The bureau may be headed by a chief appointed by the adjutant general with the concurrence of the governor or the governor may appoint the adjutant general to serve as chief. The chief shall hold office at the pleasure of the governor and his compensation shall be fixed by the governor. If the adjutant general is chief, he shall receive no additional compensation for serving as chief.

**46-1005A. DISASTER EMERGENCY ACCOUNT.**

(1) There is hereby created and established in the state treasury a separate account to be known as the disaster emergency account which account shall be administered by the governor or his designee. The account shall only be used to pay obligations and expenses incurred by the state of Idaho during a declared state of disaster emergency.

(2) In order to pay said obligations and expenses in coping with a declared state of disaster emergency the governor shall expend state money as follows:

(a) The governor shall use any moneys available in the disaster emergency account.

(b) In the event the disaster emergency account is inadequate to satisfy said obligations and expenses, the governor is empowered to direct, by executive order, the state controller to transfer moneys from the general account, created pursuant to section 67-1205, Idaho Code, to the disaster emergency account, provided that in the governor's judgment sufficient general account moneys will be available to support the full general account appropriations for the current fiscal year.

(c) In addition to any purpose for which they have previously been created, all funds excluding constitutionally created funds, or funds limited in their application by the constitution of the state of Idaho, are hereby expressly declared to be appropriated for the purpose of effectuating the purposes of this act. If the moneys made available in paragraphs (a) and (b) above are inadequate to meet the above mentioned obligations and expenses, the governor is empowered to direct the state controller, by executive order, to transfer to the disaster emergency account moneys from any eligible account in order to pay said obligations and expenses; provided, that in the governor's judgment, the moneys transferred are not required to support the current year's appropriation of the affected accounts.

(d) In the event that restitution is made to the state from nonstate sources to reimburse the state for costs incurred in responding to a state of disaster emergency, the governor may use funds from the restitution to reimburse accounts from which funds were drawn to pay for the state's response to the emergency.

(3) In addition to any other purpose for which they might have been appropriated, all moneys made available by this act to be used in the event of a disaster emergency are hereby perpetually appropriated for the purpose set forth in this section according to the limitations established by this section and the constitution of the state of Idaho. In no event may the revenues made available by section 46-1005A (2) (b) and (c), Idaho Code, for any and all emergency purposes exceed, during any fiscal year, one percent (1%) of the annual appropriation of general account moneys for that fiscal year.

**46-1006. POWERS AND DUTIES OF CHIEF AND BUREAU.**

(1) In all matters of disaster services, the adjutant general shall represent the governor and shall on behalf of the governor, coordinate the activities of all of the state agencies in disaster services. The bureau shall have a coordinating officer and other professional, technical, secretarial and clerical employees necessary for the performance of its functions.

(2) The bureau shall prepare, maintain and update a state disaster plan based on the principle of self help at each level of government. The plan may provide for:

(a) Prevention and minimization of injury and damage caused by disaster;

(b) Prompt and effective response to disaster;

(c) Emergency relief;

(d) Identification of areas particularly vulnerable to disasters;

(e) Assistance to local officials in designing local emergency action plans;

(f) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from disaster;

(g) Preparation and distribution to the appropriate state and local officials of catalogs of federal, state and private assistance programs;

- (h) Assistance to local officials in designing plans for search, rescue, and recovery of persons lost, entrapped, victimized, or threatened by disaster;
  - (i) Organization of manpower and chains of command;
  - (j) Coordination of federal, state, and local disaster activities;
  - (k) Coordination of the state disaster plan with the disaster plans of the federal government.
- (3) The bureau shall participate in the development and revision of local and intergovernmental disaster plans. To this end it may employ or otherwise secure the services of professional and technical personnel to provide expert assistance to political subdivisions, their disaster agencies, and intergovernmental planning and disaster agencies. This personnel shall consult with subdivisions and agencies and shall make field examinations of the areas, circumstances, and conditions to which particular local and intergovernmental disaster plans are intended to apply.
- (4) In preparing and maintaining the state disaster plan, the bureau shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local and intergovernmental agencies, the bureau shall encourage them also to seek advice from these sources.
- (5) The state disaster plan or any part thereof may be incorporated in rules of the bureau promulgated subject to chapter 52, title 67, Idaho Code.
- (6) The bureau shall:
- (a) Promulgate standards and criteria for local and intergovernmental disaster plans;
  - (b) Periodically review local and intergovernmental disaster plans;
  - (c) Assist political subdivisions, their disaster agencies, and intergovernmental disaster agencies to establish and operate training programs and programs of public information;
  - (d) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;
  - (e) Prepare executive orders and proclamations for issuance by the governor, as necessary or appropriate in coping with disasters;
  - (f) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster prevention, preparation, response, and recovery;
  - (g) Maintain a register of search and rescue organizations, units, teams, or individuals operating within the state;
  - (h) Assist search and rescue units to accomplish standards for equipment, training and proficiency;
  - (i) Coordinate search and rescue of lost aircraft and airmen pursuant to section 21-114, Idaho Code, with aerial search operations coordinated by the Idaho transportation department, division of aeronautics;
  - (j) In addition to disaster prevention measures as included in the state, local, and intergovernmental disaster plans, the bureau shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. The governor from time to time may make recommendations to the legislature, local governments and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters; and
  - (k) Not limit the powers and duties of the department of transportation, division of aeronautics, as provided by sections 21-114 and 21-118, Idaho Code.

**46-1007. LIMITATIONS.** Nothing in this act shall be construed to:

- (1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
- (2) Interfere with dissemination of news or comment on public affairs;
- (3) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, local emergency medical service (EMS) agencies licensed by the state department of health and welfare EMS bureau, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state, local, and intergovernmental disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or
- (4) Limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in him under the constitution or statutes of this state independent of or in conjunction with any provisions of this act.

**46-1008. THE GOVERNOR AND DISASTER EMERGENCIES.**

- (1) Under this act, the governor may issue executive orders, proclamations and amend or rescind them. Executive orders and proclamations have the force and effect of law.



- (2) A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that the occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed, or the disaster has been dealt with to the extent that emergency conditions no longer exist, and when either or both of these events occur, the governor shall terminate the state of disaster emergency by executive order or proclamation; provided, however, that no state of disaster emergency may continue for longer than thirty (30) days unless the governor finds that it should be continued for another thirty (30) days or any part thereof. The legislature by concurrent resolution may terminate a state of disaster emergency at any time. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the area subject to the proclamation, and the conditions which are causing the disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and unless the circumstances attendant upon the disaster prevent or impede, be promptly filed with the bureau of homeland security, the office of the secretary of state and the office of the recorder of each county where the state of disaster emergency applies.
- (3) An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local and intergovernmental disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this act or any other provision of law relating to disaster emergencies.
- (4) During the continuance of any state of disaster emergency the governor is commander-in-chief of the militia and may assume command of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.
- (5) In addition to any other powers conferred upon the governor by law, he may:
- (a) Suspend the provisions of any regulations prescribing the procedures for conduct of public business that would in any way prevent, hinder, or delay necessary action in coping with the emergency;
  - (b) Utilize all resources of the state, including, but not limited to, those sums in the disaster emergency account as he shall deem necessary to pay obligations and expenses incurred during a declared state of disaster emergency;
  - (c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
  - (d) Subject to any applicable requirements for compensation under section 46-1012, Idaho Code, commandeer or utilize any private property, real or personal, if he finds this necessary to cope with the disaster emergency;
  - (e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery;
  - (f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;
  - (g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
  - (h) Suspend or limit the sale, dispensing or transportation of alcoholic beverages, explosives, and combustibles;
  - (i) Make provision for the availability and use of temporary emergency housing.
- (6) Whenever an emergency or a disaster has been declared to exist in Idaho by the president under the provisions of the disaster relief act of 1974 (public law 93-288, 42 U.S.C. 5121), as amended, the governor may:
- (a) Enter into agreements with the federal government for the sharing of disaster recovery expenses involving public facilities;
  - (b) Require as a condition of state assistance that a local taxing district be responsible for paying forty percent (40%) of the nonfederal share of costs incurred by the local taxing district which have been determined to be eligible for reimbursement by the federal government, provided that the total local share of eligible costs for a taxing district shall not exceed ten percent (10%) of the taxing district's tax charges authorized by section 63-802, Idaho Code;
  - (c) Obligate the state to pay the balance of the nonfederal share of eligible costs within local taxing entities qualifying for federal assistance; and
  - (d) Enter into agreements with the federal government for the sharing of disaster assistance expenses to include individual and family grant programs.

(7) During the continuance of any state of disaster emergency, neither the governor nor any agency of any governmental entity or political subdivision of the state shall impose restrictions on the lawful possession, transfer, sale, transport, storage, display or use of firearms or ammunition.

#### **46-1009. LOCAL AND INTERGOVERNMENTAL DISASTER AGENCIES AND SERVICES.**

- (1) Each county within this state shall be within the jurisdiction of and served by the bureau and by a county or intergovernmental agency responsible for disaster preparedness and coordination of response.
- (2) Each county shall maintain a disaster agency or participate in an intergovernmental disaster agency which, except as otherwise provided under this act, has jurisdiction over and serves the entire county, or shall have a liaison officer appointed by the county commissioners designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response and recovery.
- (3) The chairman of the board of county commissioners of each county in the state shall notify the bureau of the manner in which the county is providing or securing disaster planning and emergency services. The chairman shall identify the person who heads the agency or acts in the capacity of liaison from which the service is obtained, and furnish additional information relating thereto as the bureau requires.
- (4) Each county and/or intergovernmental agency shall prepare and keep current a local or intergovernmental disaster emergency plan for its area.
- (5) The county or intergovernmental disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

#### **46-1010. INTERGOVERNMENTAL ARRANGEMENTS.**

- (1) The governor may enter into interstate emergency or disaster service compacts with any state if he finds that joint action with the state is desirable in meeting common intergovernmental problems of emergency or disaster planning, prevention, response, and recovery.
- (2) Nothing in subsection (1) hereof shall be construed to limit previous or future entry into the interstate civil defense and disaster compact of this state with other states.
- (3) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster proclaimed by the governor, and this state shall give due recognition to the license, certificate, or other permit.
- (4) All interstate mutual aid compacts and other interstate agreements dealing with disaster and emergency services shall be reviewed and updated at intervals not to exceed four (4) years.
- (5) When considered of mutual benefit, the governor may, subject to limitations of law, enter into intergovernmental arrangements with neighboring provinces of Canada for the purpose of exchanging disaster and emergency services.
- (6) Pursuant to an interstate agreement, personnel working for the state, its political subdivisions, municipal or public corporations, and other public agencies, may work outside the state to aid in disaster and emergency relief work; or equipment belonging to the state, its political subdivisions, municipal or public corporations, and other public agencies may be used outside the state to aid in disaster and emergency relief work. When state or local highway equipment or personnel are used in disaster relief work outside the state, arrangements shall be made, as necessary, to reimburse the state, its political subdivisions, municipal or public corporations, and other public agencies, for such work or equipment to comply with section 17, article 7 of the Idaho constitution, which provides that gasoline taxes and motor vehicle funds shall be used exclusively for the public highways of the state.

#### **46-1011. LOCAL DISASTER EMERGENCIES.**

- (1) A local disaster emergency may be declared only by a mayor or chairman of the county commissioners within their respective political subdivisions. It shall not be continued or renewed for a period in excess of seven (7) days except by or with the consent of the governing board of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the local county recorder.
- (2) The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or intergovernmental disaster emergency plans and to authorize the furnishing of aid and assistance thereunder.

(3) No intergovernmental agency or official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an intergovernmental disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions.

#### **46-1012. COMPENSATION.**

(1) Each person within this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state, other political subdivisions, and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. This act neither increases nor decreases these obligations but recognizes their existence under the constitution and statutes of this state. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his services or property without compensation.

(2) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law or ordinance.

(3) Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the governor or his representative.

(4) Any person claiming compensation for the use, damage, loss, or destruction of property under this act shall file a claim therefor with the bureau in the form and manner the bureau provides.

(5) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed upon between the claimant and the bureau, the amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to the condemnation laws of this state.

**46-1013. COMMUNICATIONS.** The bureau shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The bureau shall consider the desirability of supplementing these communication resources or of integrating them into a comprehensive state or state-federal telecommunications or other communication system or network. The bureau shall make recommendations to the governor as appropriate.

#### **46-1014. MUTUAL AID.**

(1) Political subdivisions not participating in the intergovernmental arrangements pursuant to this act nevertheless shall be encouraged and assisted by the bureau to conclude suitable arrangement for furnishing mutual aid in coping with disasters. The arrangements shall include provisions of aid by persons and units in public employ.

(2) In passing upon local disaster plans, the bureau shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.

**46-1015. WEATHER MODIFICATION.** The bureau shall keep continuously appraised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the bureau determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. Thereupon, no permits may be issued until the bureau informs the officer or agency that the danger has passed.

**46-1016. LIABILITY FOR PROPERTY DAMAGE, BODILY INJURY OR DEATH.** No person, partnership, corporation, association, the state of Idaho or any political subdivision thereof or other entity who owns, leases, controls, occupies or maintains any building or premises which shall have been designated by proper authority for civil defense as a shelter from destructive operations or attacks by enemies of the United States shall be liable to any person for property damages, bodily injury or death resulting from or caused by the condition of said building or premises or as a result of any act or omission or in any way arising from the designation of such premises or buildings as a shelter when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for acts of willful negligence by the owner or occupant of such building or premises or other person responsible for the maintenance thereof, or by his servants, agents or employees.

**46-1017. IMMUNITY.** Neither the state, nor the bureau, nor any political subdivision thereof nor other agencies, nor, except in cases of willful misconduct, the agents, employees or representatives of any of them engaged in any civil defense,

disaster or emergency and the planning or preparation for the same, or disaster or emergency relief activities, acting under proper authority, nor, except in cases of willful misconduct or gross negligence, any person, firm, corporation or entity under contract with them to provide equipment or work to be used in civil defense, disaster or emergency planning, preparation or relief, while complying with or attempting to comply with this act or any rule or regulation promulgated pursuant to the provisions of the act, shall be liable for the death of or any injury to persons or damage to property as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this act or under the worker's compensation law or under any pension law, nor the right of any such person to receive any benefits or compensation under any act of congress.

**46-1018. INTERSTATE MUTUAL AID COMPACT.** The state of Idaho hereby enacts into law and enters into the interstate mutual aid compact with those states who agree and enact the interstate mutual aid compact in accordance with the terms of the compact, which compact is substantially as follows:

#### INTERSTATE MUTUAL AID COMPACT

##### Article I

The purpose of this compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster that overextends the ability of local and state governments to reduce, counteract, or remove the danger. Assistance may include but is not limited to rescue, fire, police, medical, communication, and transportation services and facilities to cope with problems which require use of special equipment, trained personnel, or personnel in large numbers not locally available.

##### Article II

Article I, Section 10, of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of 50 U.S.C. 2281(g) and 2283 and the executive branch, by issuance of Executive Order No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster, and civil defense mutual aid agreements or pacts.

##### Article III

It is agreed by participating states that the following conditions will guide implementation of the compact:

- (1) Participating states through their designated officials are authorized to request and receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency and other resources are not immediately available.
- (2) Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it must be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, and personnel or other resources needed. Each request must be signed by an authorized official.
- (3) Personnel and equipment of the aiding state made available to the requesting state shall, whenever possible, remain under the control and direction of the aiding state. The activities of personnel and equipment of the aiding state must be coordinated by the requesting state.
- (4) An aiding state has the right to withdraw some or all of its personnel and equipment whenever the personnel and equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting state as soon as possible.

##### Article IV

- (1) The requesting state shall reimburse the aiding state as soon as possible after the receipt by the requesting state of an itemized voucher requesting reimbursement of costs.
- (2) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.
- (3) Any state rendering aid pursuant to this compact must be reimbursed by the state receiving such aid for the cost of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives if such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement and such payments are made in the same manner and on the same terms as if the injury or death were sustained within the aiding state.

##### Article V

- (1) All privileges and immunities from liability, exemptions from law, ordinances, and rules and all pension, disability relief, workers' compensation, and other benefits that apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions apply

to them to the same extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this compact.

(2) All privileges and immunities from liability, exemptions from law, ordinances, and rules and workers' compensation and other benefits that apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits apply to the same extent while performing their functions extraterritorially under the provisions of this compact. Volunteers may include but are not limited to physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

(3) The signatory states, their political subdivisions, municipal or public corporations, and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other states with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

(4) Nothing of this arrangement may be construed as repealing or impairing any existing interstate mutual aid agreements.

(5) Upon enactment of this compact by two (2) or more states, and annually by each January 1 thereafter, the participating states will exchange with each other the names of officials designated to request and provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it is permissible and desirable for the states to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

(6) This compact becomes effective and is binding upon the states so acting when it has been enacted into law by any two (2) states. Thereafter, this compact becomes effective and binding as to any other state upon similar action by such state.

(7) This compact remains binding upon a party state until it enacts a law repealing the compact and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal may not take effect until the 30th consecutive day after the notice has been sent. Such withdrawal does not relieve the withdrawing state from its obligations assumed under this compact prior to the effective date of withdrawal.

**46-1018A.EMERGENCY MANAGEMENT ASSISTANCE COMPACT.** The legislature of the state of Idaho hereby authorizes the governor of the state of Idaho to enter into a compact on behalf of the state of Idaho with any other state legally joining therein, in the form substantially as follows:

#### EMERGENCY MANAGEMENT ASSISTANCE COMPACT

##### ARTICLE I

##### PURPOSES AND AUTHORITIES

(1) This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

(2) The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

(3) This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the national guard mutual assistance compact or by mutual agreement between states.

##### ARTICLE II

##### GENERAL IMPLEMENTATION

(1) Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

(2) The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the

people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

(3) On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

### ARTICLE III PARTY STATE RESPONSIBILITIES

(1) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

- (a) Review individual state hazards analysis and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders, insurgency or enemy attack.
- (b) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.
- (c) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.
- (d) Assist in warning communities adjacent to or crossing the state boundaries.
- (e) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material.
- (f) Inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness.
- (g) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(2) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

- (a) A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.
  - (b) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.
  - (c) The specific place and time for staging of the assisting party's response and a point of contact at that location.
- (3) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

### ARTICLE IV LIMITATIONS

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, and privileges as are afforded forces of the states in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency service authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training of mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

ARTICLE V  
LICENSES AND PERMITS

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

ARTICLE VI  
LIABILITY

Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence or recklessness.

ARTICLE VII  
SUPPLEMENTARY AGREEMENTS

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that among the states that are party hereto, this compact contains elements of a broad base common to all states, and nothing herein contained shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

ARTICLE VIII  
COMPENSATION

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

ARTICLE IX  
REIMBURSEMENT

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provisions of any service in answering a request for aid and for the costs incurred in connection with such requests; provided, that any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost; and provided further, that any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

ARTICLE X  
EVACUATION

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the

emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

#### ARTICLE XI IMPLEMENTATION

- (1) This compact shall become operative immediately upon its enactment into law by any two (2) states; thereafter this compact shall become effective as to any other state upon its enactment by such state.
- (2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.
- (3) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

#### ARTICLE XII VALIDITY

This compact shall be construed to effectuate the purposes stated in Article I hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

#### ARTICLE XIII ADDITIONAL PROVISIONS

Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under section 1385 of title 18, United States Code.

**46-1201. DEFINITIONS. (EFFECTIVE UNTIL DECEMBER 31, 2012)** As used in this chapter:

- (1) "Cooperation" means to work or to act together towards a common end or purpose.
- (2) "Coordination" means harmonious adjustment or interaction of equal functions of similar importance.
- (3) "Council" means the Idaho statewide interoperability executive council.
- (4) "Interoperability" means the ability of public safety service and support providers, law enforcement, firefighters, EMS, emergency management, public utilities, transportation and others, to communicate when necessary with staff from other responding agencies, and to exchange voice, video and/or data communications on demand, in real time, and when authorized.

**46-1202. IDAHO STATEWIDE INTEROPERABILITY EXECUTIVE COUNCIL. (EFFECTIVE UNTIL DECEMBER 31, 2012)** There is hereby created in the military division the Idaho statewide interoperability executive council to provide policy level direction and promote efficient and effective use of resources for matters related to public safety wireless radio interoperability.

**46-1203. PURPOSE. (EFFECTIVE UNTIL DECEMBER 31, 2012)** The council will serve as the governing body in affairs of public safety wireless radio interoperable communications for local and private entities. The council will promote interagency cooperation and provide support statewide for efficient and effective use of local and private resources to achieve public safety wireless radio interoperable communications for local and private public safety agencies.

**46-1204. COUNCIL RESPONSIBILITIES. (EFFECTIVE UNTIL DECEMBER 31, 2012)** The responsibilities of the council are to:

- (1) Develop a statewide plan for local and private public safety wireless radio interoperable communications;
- (2) Develop and adopt standards for local and private public safety wireless radio interoperable communications;
- (3) Recommend guidelines and standards for operation for local and private public safety wireless radio interoperable communications systems in Idaho;
- (4) Promote coordination and cooperation among local, state, federal and tribal public safety agencies in addressing statewide public safety wireless radio interoperable communications needs in Idaho;



- (5) Review priorities for statewide public safety wireless radio interoperable communications needs and assist users of the statewide system in the development of projects, plans, policies, standards, priorities and guidelines for public safety wireless radio interoperable communications;
- (6) Develop funding recommendations for short-term and long-term system maintenance;
- (7) Research best practices of other states;
- (8) Prepare and present a report to the information technology resource management council by December 30 of each year describing the council's acts and achievements of the previous year;
- (9) Provide recommendations to the governor and the legislature of the state of Idaho, when appropriate, concerning issues related to local and private statewide public safety wireless radio interoperable communications in Idaho and in accordance with homeland security presidential directives;
- (10) Report annually to the legislature of the state of Idaho on the planned expenditures for the next fiscal year, the collected revenues and moneys disbursed from the Idaho statewide interoperability communications fund and programs or projects in progress, completed or anticipated;
- (11) Serve as a conduit for the future allocation of federal grant funds to support the delivery of public safety wireless radio interoperable communications systems directed towards local government and private entities;
- (12) Enter into contracts with experts and/or consultants as may be necessary to carry out the purposes of this chapter and to sue and be sued; and
- (13) Work in coordination and cooperation with the Idaho emergency communications commission established by section 31-4815, Idaho Code, and the information technology resource management council, established by section 67-5745B, Idaho Code.

**46-1205. RULES. (EFFECTIVE UNTIL DECEMBER 31, 2012)** The council will promulgate rules pursuant to the provisions of chapter 52, title 67, Idaho Code, to carry out its responsibilities and purpose.

**46-1206. IDAHO STATEWIDE INTEROPERABILITY EXECUTIVE COUNCIL COMMUNICATIONS FUND -- ESTABLISHMENT AND ADMINISTRATION. (EFFECTIVE UNTIL DECEMBER 31, 2012)**

- (1) There is hereby created within the treasury of the state of Idaho a separate fund known as the Idaho statewide interoperability communications fund, which shall consist of moneys received from the state, counties, cities, public safety communications operations, grants, donations, gifts and revenues from any other source to support the delivery of public safety wireless radio interoperable communications systems throughout the state.
- (2) Moneys in the fund are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this chapter as determined by the council.
- (3) The council, through the military division, shall authorize disbursement of moneys in the fund to eligible entities and for the support of this council.

**46-1207. ADMINISTRATIVE SUPPORT. (EFFECTIVE UNTIL DECEMBER 31, 2012)** The council may, with concurrence of the governor of the state of Idaho, create the position of a project manager and the position of an administrative assistant, which positions shall be exempt from the requirements of the merit system, chapter 53, title 67, Idaho Code. In accordance with the laws of the state, the adjutant general may hire, fix the compensation and prescribe the powers and duties of such other individuals, including consultants, as may be necessary to carry out the provisions of this chapter.

**46-1208. MEETINGS. (EFFECTIVE UNTIL DECEMBER 31, 2012)** The council will meet no less than four (4) times annually.

**46-1209. CHAIR AND VICE-CHAIR. (EFFECTIVE UNTIL DECEMBER 31, 2012)** The governor shall appoint a chair and the council shall elect a vice-chair and other such officers as it may deem necessary and appropriate. The chair has authority and is responsible for all affairs of the council.

**46-1210. SUBCOMMITTEES. (EFFECTIVE UNTIL DECEMBER 31, 2012)** The council will appoint subcommittees consistent with the needs of the council to address issues including, but not limited to:

- (1) Technical support and education issues regarding public safety wireless radio interoperable communications in Idaho;
- (2) Federal, state and local funding availability; and

(3) Outreach and liaison with federal and other state organizations working on public safety wireless radio interoperable communications solutions.

**46-1211. COUNCIL MEMBERS. (EFFECTIVE UNTIL DECEMBER 31, 2012)**

- (1) The council members shall be appointed by the governor and shall include at a minimum the representatives of the following organizations:
  - (a) One (1) representative from the Idaho transportation department;
  - (b) One (1) representative from the Idaho sheriffs' association;
  - (c) One (1) representative from the Idaho chiefs of police association;
  - (d) One (1) representative from the Idaho fire chiefs association;
  - (e) One (1) representative from the association of Idaho cities;
  - (f) One (1) representative from the Idaho association of counties;
  - (g) Two (2) representatives from the Idaho military division;
  - (h) One (1) representative from the Idaho department of administration;
  - (i) One (1) representative from the Idaho department of correction;
  - (j) One (1) representative from the Idaho state police;
  - (k) One (1) representative from the Idaho department of lands;
  - (l) One (1) representative from the Idaho department of fish and game;
  - (m) One (1) representative from the Idaho department of health and welfare;
  - (n) One (1) representative from Idaho tribal government; and
  - (o) Two (2) members at large.
- (2) Additional voting members will be invited in the following capacities:
  - (a) One (1) liaison from federal law enforcement;
  - (b) One (1) liaison from the United States department of homeland security transportation security administration;
  - (c) One (1) liaison from the United States department of the interior; and
  - (d) One (1) liaison from the national interagency fire center.

**46-1212. COUNCIL MEMBER TERMS. (EFFECTIVE UNTIL DECEMBER 31, 2012)**

- (1) Except as provided in this section, members of the council will be appointed for a term of four (4) years.
- (2) The following five (5) members shall be appointed for an initial term of two (2) years:
  - (a) The member representing the Idaho fire chiefs association;
  - (b) The member representing the Idaho chiefs of police association;
  - (c) The member representing the Idaho sheriffs' association;
  - (d) The member representing the Idaho association of counties; and
  - (e) The member representing the association of Idaho cities.
- (3) The following four (4) members will be appointed for an initial term of three (3) years:
  - (a) The member representing the Idaho transportation department;
  - (b) The member representing the Idaho department of administration;
  - (c) The member representing the Idaho department of lands; and
  - (d) The member representing the Idaho department of health and welfare.
- (4) Members of the council shall be compensated as provided in section 59-509(b), Idaho Code.
- (5) New members may be added or members replaced at annual, special or regular council meetings with approval from the office of the governor for the state of Idaho. Upon resignation of a member, the governor may appoint a replacement for the remainder of the vacated term.

## **TITLE 49 MOTOR VEHICLES**

**49-123. DEFINITIONS -- V.**

- (1) "Variable load suspension axle" means an axle or axles designed to support a part of the vehicle and load and which can be regulated to vary the amount of load supported by such an axle or axles and which can be deployed or lifted by the operator of the vehicle. See also section 49-117, Idaho Code.
  - (a) "Fully raised" means that the variable load suspension axle is in an elevated position preventing the tires on such axle from having any contact with the roadway.

- (b) "Fully deployed" means that the variable load suspension axle is supporting a portion of the weight of the loaded vehicle as controlled by the preset pressure regulator valve.
- (2) "Vehicle" means:
- (a) General. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.
  - (b) Authorized emergency vehicle. Vehicles operated by any fire department or law enforcement agency of the state of Idaho or any political subdivision of the state, ambulances, vehicles belonging to personnel of voluntary fire departments while in performance of official duties only, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, wreckers which are engaged in motor vehicle recovery operations and are blocking part or all of one (1) or more lanes of traffic, other emergency vehicles designated by the director of the Idaho state police or vehicles authorized by the Idaho transportation board and used in the enforcement of laws specified in section 40-510, Idaho Code, pertaining to vehicles of ten thousand (10,000) pounds or greater.
  - (c) Commercial vehicle or commercial motor vehicle. For the purposes of chapters 3 and 9 of this title, driver's licenses and vehicle equipment, a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:
    - (i) Has a manufacturer's gross combination weight rating (GCWR) in excess of twenty-six thousand (26,000) pounds inclusive of a towed unit with a manufacturer's gross vehicle weight rating (GVWR) of more than ten thousand (10,000) pounds; or
    - (ii) Has a manufacturer's gross vehicle weight rating (GVWR) in excess of twenty-six thousand (26,000) pounds; or
    - (iii) Is designed to transport sixteen (16) or more people, including the driver; or
    - (iv) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the hazardous material transportation act and which require the motor vehicle to be placarded under the hazardous materials regulations (49 CFR part 172, subpart F).

For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a vehicle or combination of vehicles of a type used or maintained for the transportation of persons for hire, compensation or profit, or the transportation of property for the owner of the vehicle, or for hire, compensation, or profit, and shall include fixed load specially constructed vehicles exceeding the limits imposed by chapter 10, title 49, Idaho Code, and including drilling rigs, construction, drilling and wrecker cranes, log jammers, log loaders, and similar vehicles which are normally operated in an overweight or oversize condition or both, but shall not include those vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code, or exempted by section 49-426, Idaho Code. A motor vehicle used in a ridesharing arrangement that has a seating capacity for not more than fifteen (15) persons, including the driver, shall not be a "commercial vehicle" under the provisions of this title relating to equipment requirements, rules of the road, or registration.

- (d) Farm vehicle. A vehicle or combination of vehicles owned by a farmer or rancher, which are operated over public highways, and used exclusively to transport unprocessed agricultural, dairy or livestock products raised, owned and grown by the owner of the vehicle to market or place of storage; and shall include the transportation by the farmer or rancher of any equipment, supplies or products purchased by that farmer or rancher for his own use, and used in the farming or ranching operation or used by a farmer partly in transporting agricultural products or livestock from the farm of another farmer that were originally grown or raised on the farm, or when used partly in transporting agricultural supplies, equipment, materials or livestock to the farm of another farmer for use or consumption on the farm but not transported for hire, and shall not include vehicles of husbandry or vehicles registered pursuant to sections 49-402 and 49-402A, Idaho Code.
- (e) Foreign vehicle. Every vehicle of a type required to be registered under the provisions of this title brought into this state from another state, territory or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this state.
- (f) Glider kit vehicle. Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.
- (g) Motor vehicle. Every vehicle which is self-propelled, and for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section 49-107, Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs or

other such vehicles that are specifically exempt from titling or registration requirements under title 49, Idaho Code.

(h) Multipurpose passenger vehicle (MPV). For the purposes of section 49-966, Idaho Code, a motor vehicle designed to carry ten (10) or fewer persons which is constructed either on a truck chassis or with special features for occasional off-road operation.

(i) Neighborhood electric vehicle (NEV). A self-propelled, electrically-powered, four-wheeled motor vehicle which is emission free and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under federal regulations at 49 CFR part 571. An NEV shall be titled, registered and insured according to law as provided respectively in chapters 4, 5 and 12, title 49, Idaho Code, and shall only be operated by a licensed driver. Operation of an NEV on a highway shall be allowed as provided in section 49-663, Idaho Code.

(j) Noncommercial vehicle. For the purposes of chapter 4, title 49, Idaho Code, motor vehicle registration, a noncommercial vehicle shall not include those vehicles required to be registered under sections 49-402 and 49-402A, Idaho Code, and means all other vehicles or combinations of vehicles which are not commercial vehicles or farm vehicles, but shall include motor homes. A noncommercial vehicle shall include those vehicles having a combined gross weight not in excess of sixty thousand (60,000) pounds and not held out for hire, used for purposes related to private use and not used in the furtherance of a business or occupation for compensation or profit or for transporting goods for other than the owner.

(k) Passenger car. For the purposes of section 49-966, Idaho Code, a motor vehicle, except a multipurpose passenger vehicle, motorcycle or trailer, designed to carry ten (10) or fewer persons.

(l) Rebuilt salvage vehicle. Every vehicle that has been rebuilt or repaired using like make and model parts and visually appears as a vehicle that was originally constructed under a distinctive manufacturer. This includes a salvage vehicle which is damaged to the extent that a "rebuilt salvage" brand is required to be added to the title.

(m) Reconstructed vehicles. Vehicles which have been reconstructed by the use of a kit designed to be used to construct an exact replica of a vehicle which was previously constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles. A glider kit vehicle is not a reconstructed vehicle.

(n) Replica vehicle. A vehicle made to replicate any passenger car or truck previously manufactured, using metal, fiberglass or other composite materials. Replica vehicles must look like the original vehicle being replicated but may use a more modern drive train. At a minimum, replica vehicles shall meet the same federal motor vehicle safety and emission standards in effect for the year and type of vehicle being replicated.

(o) Salvage vehicle. Any vehicle for which a salvage certificate, salvage bill of sale or other documentation showing evidence that the vehicle has been declared salvage or which has been damaged to the extent that the owner, or an insurer, or other person acting on behalf of the owner, determines that the cost of parts and labor minus the salvage value makes it uneconomical to repair or rebuild. When an insurance company has paid money or has made other monetary settlement as compensation for a total loss of any vehicle, such vehicle shall be considered to be a salvage vehicle.

(p) Specially constructed vehicle. Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction and cannot be visually identified as a vehicle produced by a particular manufacturer.

This includes:

(i) A vehicle that has been structurally modified so that it does not have the same appearance as a similar vehicle from the same manufacturer; or

(ii) A vehicle that has been constructed entirely from homemade parts and materials not obtained from other vehicles; or

(iii) A vehicle that has been constructed by using major component parts from one (1) or more manufactured vehicles and cannot be identified as a specific make or model; or

(iv) A vehicle constructed by the use of a custom kit that cannot be visually identified as a specific make or model. All specially constructed vehicles of a type required to be registered shall be certified by the owner to meet all applicable federal motor vehicle safety standards in effect at the time construction is completed, and all requirements of chapter 9, title 49, Idaho Code.

(q) Specialty off-highway vehicle. A specialty off-highway vehicle as defined in section [67-7101](#), Idaho Code.

[(r)] (q) Total loss vehicle. Every vehicle that is deemed to be uneconomical to repair. A total loss shall occur when an insurance company or any other person pays or makes other monetary settlement to the owner when it is deemed to be uneconomical to repair the damaged vehicle. The compensation for total loss as defined herein shall

not include payments by an insurer or other person for medical care, bodily injury, vehicle rental or for anything other than the amount paid for the actual damage to the vehicle.

- (3) "Vehicle identification number." (See "Identifying number," section 49-110, Idaho Code)
- (4) "Vehicle salesman" means any person who, for a salary, commission or compensation of any kind, is employed either directly or indirectly, or regularly or occasionally by any dealer to sell, purchase or exchange, or to negotiate for the sale, purchase or exchange of vehicles. (See also "full-time salesman," section 49-107, Idaho Code, and "part-time salesman," section 49-117, Idaho Code)
- (5) "Vessel." (See section 67-7003, Idaho Code)
- (6) "Veteran." (See section 65-502, Idaho Code)
- (7) "Violation" means a conviction of a misdemeanor charge involving a moving traffic violation, or an admission or judicial determination of the commission of an infraction involving a moving traffic infraction, except bicycle infractions.

#### **49-306. APPLICATION FOR DRIVER'S LICENSE, INSTRUCTION PERMIT, OR RESTRICTED SCHOOL ATTENDANCE DRIVING PERMIT. [EFFECTIVE UNTIL JANUARY 1, 2012.]**

(1) Every application for any instruction permit, restricted school attendance driving permit, or for a driver's license shall be made upon a form furnished by the department and shall be verified by the applicant before a person authorized to administer oaths. Officers and employees of the department and sheriffs and their deputies are authorized to administer the oaths without charge. Every application for a permit, extension or driver's license shall be accompanied by the following fee, none of which is refundable:

- (a) Class A, B, C (4-year) license with endorsements - age 21 years and older ..... \$40.00
- (b) Class A, B, C (3-year) license with endorsements - age 18 to 21 years ..... \$30.00
- (c) Class A, B, C (1-year) license with endorsements - age 20 years ..... \$15.00
- (d) Class D (3-year) license - under age 18 years..... \$25.00
- (e) Class D (3-year) license - age 18 to 21 years..... \$25.00
- (f) Class D (1-year) license - age 17 years or age 20 years..... \$15.00
- (g) Four-year Class D license - age 21 years and older ..... \$30.00
- (h) Eight-year Class D license - age 21 to 63 years..... \$55.00
- (i) Class A, B, C instruction permit ..... \$29.00
- (j) Class D instruction permit or supervised instruction permit ..... \$15.00
- (k) Duplicate driver's license or permit issued under section 49-318, Idaho Code..... \$15.00
- (l) Driver's license extension issued under section 49-319, Idaho Code ..... \$10.00
- (m) License classification change (upgrade) ..... \$25.00
- (n) Endorsement addition ..... \$15.00
- (o) Class A, B, C skills tests ..... not more than \$70.00
- (p) Class D skills test..... \$24.00
- (q) Motorcycle endorsement skills test..... \$10.00
- (r) Knowledge test ..... \$ 3.00
- (s) Seasonal driver's license ..... \$39.00
- (t) One time motorcycle "M" endorsement ..... \$15.00
- (u) Motorcycle endorsement instruction permit ..... \$15.00
- (v) Restricted driving permit or restricted school attendance driving permit ..... \$60.00

(2) Every application shall state the true and full name, date of birth, sex, declaration of Idaho residency, Idaho residence address and mailing address, if different, of the applicant, height, weight, hair color, and eye color, and the applicant's social security number as verified by the social security administration. If an applicant has submitted an application pursuant to the provisions of [chapter 58, title 19](#), Idaho Code, then the applicant may state, in his or her application pursuant to this section, the applicant's alternative Idaho mailing address in place of his or her Idaho residence address and mailing address.

- (a) The requirement that an applicant provide a social security number as verified by the social security administration shall apply only to applicants who have been assigned a social security number.
- (b) An applicant who has not been assigned a social security number shall:
  - (i) Present written verification from the social security administration that the applicant has not been assigned a social security number; and
  - (ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States; and

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

A driver's license or any instruction permit issued on and after January 1, 1993, shall not contain an applicant's social security number. Applications on file shall be exempt from disclosure except as provided in sections 49-202, 49-203, 49-203A and 49-204, Idaho Code.

Every application for a class A, B or C license shall state where the applicant has been licensed for the preceding ten (10) years and all applications shall also state whether the applicant has previously been licensed as a driver, and if so, when and by what state or country, and whether a driver's license or privileges have ever been suspended, revoked, denied, disqualified, canceled or whether an application has ever been refused, and if so, the date of and reason for the suspension, revocation, denial, disqualification, cancellation or refusal and the applicant's oath that all information is correct as signified by the applicant's signature.

The applicant may be required to submit proof of identity acceptable to the examiner or the department and date of birth as set forth in a certified copy of his birth certificate when obtainable, or another document which provides satisfactory evidence of a person's date of birth acceptable to the examiner or the department.

(c) Individuals required to register in compliance with section 3 of the federal military selective service act, 50 U.S.C. App. 451 et seq., as amended, shall be provided an opportunity to fulfill such registration requirements in conjunction with an application for a driver's license or instruction permit. Any registration information so supplied shall be transmitted by the department to the selective service system.

(3) Whenever an application is received from a person previously licensed in another jurisdiction, the department shall request a copy of the driver's record from the other jurisdiction and shall contact the national driver register. When received, the driver's record from the previous jurisdiction shall become a part of the driver's record in this state with the same force and effect as though entered on the driver's record in this state in the original instance.

(4) Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

(5) The department shall contact and notify the commercial driver license information system of the proposed application for a class A, B or C driver's license to ensure identification of the person and to obtain clearance to issue the license.

(6) When the fees required under this section are collected by a county officer, they shall be paid over to the county treasurer not less often than monthly, who shall immediately:

(a) Deposit an amount equal to five dollars (\$5.00) from each driver's license except an eight-year class D license, or any class D instruction permit application fees, application for a duplicate driver's license or permit, classification change, seasonal driver's license and additional endorsement, and ten dollars (\$10.00) from each eight-year class D driver's license, in the current expense fund; and

(b) Deposit two dollars and fifty cents (\$2.50) from each motorcycle endorsement and motorcycle endorsement instruction permit fee in the current expense fund; and

(c) Deposit an amount equal to three dollars (\$3.00) from each fee for a knowledge test in the current expense fund; and

(d) Deposit an amount equal to ten dollars (\$10.00) from each fee for a motorcycle endorsement skills test in the current expense fund; provided however, if a contractor administers the skills test he shall be entitled to the ten dollar (\$10.00) fee; and

(e) Remit the remainder to the state treasurer; and

(f) Deposit seventeen dollars and fifty cents (\$17.50) from each fee for a class D skills test into the county current expense fund, unless the test is administered by a department-approved contractor, in which case the contractor shall be entitled to seventeen dollars and fifty cents (\$17.50) of each fee.

(7) When the fees required under this section are collected by a state officer or agency, they shall be paid over to the state treasurer.

(8) The state treasurer shall distribute the moneys received from fees imposed by the provisions of this section, whether collected by a county officer or by a state officer or agency as follows:

(a) Two dollars (\$2.00) of each fee for a four-year driver's license or seasonal driver's license, and four dollars (\$4.00) of each fee for an eight-year class D driver's license, and one dollar and fifty cents (\$1.50) of each fee charged for driver's licenses pursuant to subsections (1)(b), (d) and (e) of this section, and fifty cents (50¢) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section, shall be deposited in the emergency medical services fund II created in section 56-1018A, Idaho Code, and four dollars (\$4.00) of each fee charged pursuant to subsections (1)(a), (g) and (s) of this section and eight dollars (\$8.00) of each fee charged pursuant to subsection (1)(h) of this section and three dollars (\$3.00) of each fee for driver's licenses pursuant to

- subsections (1)(b), (d) and (e) of this section, and one dollar (\$1.00) of each fee charged for driver's licenses pursuant to subsections (1)(c) and (f) of this section shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and
- (b) Twenty-eight dollars (\$28.00) of each fee for a seasonal or class A, B or C driver's license, and nineteen dollars and fifty cents (\$19.50) of each fee charged for a license pursuant to subsection (1)(b) of this section, and eight dollars and sixteen cents (\$8.16) of each fee charged for a license pursuant to subsection (1)(c) of this section shall be deposited in the state highway account; and
- (c) Twenty dollars (\$20.00) of each fee for a class A, B or C instruction permit or driver's license classification change shall be deposited in the state highway account; and
- (d) Four dollars (\$4.00) of each fee for a class A, B or C instruction permit shall be deposited in the emergency medical services fund III created in section 56-1018B, Idaho Code; and
- (e) Ten dollars (\$10.00) of each fee for a duplicate seasonal or class A, B or C driver's license, class A, B or C driver's license extension, or additional endorsement shall be deposited in the state highway account; and
- (f) Seven dollars and fifty cents (\$7.50) of each fee for a motorcycle endorsement and motorcycle endorsement instruction permit shall be deposited in the state highway account; and
- (g) Five dollars and thirty cents (\$5.30) of each fee for a four-year class D driver's license, and ten dollars and sixty cents (\$10.60) of each fee for an eight-year class D driver's license, and four dollars (\$4.00) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and one dollar and thirty-three cents (\$1.33) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the driver training fund; and
- (h) Twelve dollars and seventy cents (\$12.70) of each fee for a four-year class D driver's license, and twenty dollars and forty cents (\$20.40) of each fee for an eight-year class D driver's license, and ten dollars and fifty cents (\$10.50) of each fee charged for a license pursuant to subsections (1)(d) and (e) of this section, and six dollars and eighty-three cents (\$6.83) of each fee charged for a license pursuant to subsection (1)(f) of this section shall be deposited in the highway distribution fund; and
- (i) Two dollars and sixty cents (\$2.60) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the driver training fund; and
- (j) Seven dollars and forty cents (\$7.40) of each fee for a class D instruction permit, duplicate class D license or permit, and class D license extension shall be deposited in the highway distribution fund; and
- (k) Ten dollars (\$10.00) of each fee for a class A, B or C skills test shall be deposited in the state highway account; and
- (l) One dollar (\$1.00) of each fee for a class A, B, C or four-year D driver's license, and two dollars (\$2.00) of each fee for an eight-year class D driver's license, and one dollar (\$1.00) of each fee charged for a license pursuant to subsections (1)(b), (d) and (e) of this section, and thirty-four cents (34¢) of each fee charged for a license pursuant to subsections (1)(c) and (f) of this section shall be deposited in the motorcycle safety program fund established in section 33-4904, Idaho Code; and
- (m) Six dollars and fifty cents (\$6.50) of each fee for a class D skills test shall be deposited into the state highway account.
- (9) The contractor administering a class A, B or C skills test shall be entitled to not more than sixty dollars (\$60.00) of the skills test fee. A contractor administering a class A, B or C skills test may collect an additional fee for the use of the contractor's vehicle for the skills test.
- (10) Sixty dollars (\$60.00) of each restricted driving permit and each restricted school attendance driving permit shall be deposited in the state highway account.
- (11) The department may issue seasonal class B or C driver's licenses to drivers who are employees of agri-chemical businesses, custom harvesters, farm retail outlets and suppliers, and livestock feeders that:
- Will only be valid for driving commercial vehicles that normally require class B or C commercial driver's licenses;
  - Will be valid for seasonal periods that begin on the date of issuance and that are not to exceed one hundred eighty (180) days in a twelve (12) month period;
  - May only be obtained twice in a driver's lifetime;
  - Are valid only within a one hundred fifty (150) mile radius of the place of business or farm being serviced; and
  - Will be valid only in conjunction with valid Idaho class D driver's licenses.
- (12) The department may issue seasonal class B or C driver's licenses to drivers who:
- Have not violated the single license provisions of applicable federal regulations;



- (b) Have not had any license suspensions, revocations or cancellations;
- (c) Have not had any convictions in any vehicle for any offense listed in section 49-335(1) or (2), Idaho Code, or any one (1) serious traffic offense;
- (d) Have at least one (1) year of driving experience with a class D or equivalent license in any type motor vehicle; and
- (e) Are at least sixteen (16) years old.

**49-452. EMERGENCY MEDICAL SERVICES FEE.**

(1) An emergency medical services fee of one dollar and twenty-five cents (\$1.25) shall be collected in addition to each motor vehicle registration fee amount collected under the provisions of this chapter, with the exception of those vehicles proportionally registered under section 49-435, Idaho Code. Twenty-five cents (25¢) of the fee shall be retained by the county of residence for use in funding local emergency medical service costs. One dollar (\$1.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services fund established in section 56-1018, Idaho Code.

(2) For vehicles registered under the provisions of section 49-402B, Idaho Code, the fee shall be two dollars and fifty cents (\$2.50). Fifty cents (50¢) of the fee shall be retained by the county of residence for use in funding local emergency medical services costs. Two dollars (\$2.00) of the fee shall be transmitted to the state treasurer for deposit in the emergency medical services fund established in section 56-1018, Idaho Code.

**49-623. AUTHORIZED EMERGENCY OR POLICE VEHICLES.**

(1) The driver of an authorized emergency or police vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions stated.

(2) The driver of an authorized emergency or police vehicle may:

- (a) Park or stand, irrespective of the parking or standing provisions of this title;
- (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (c) Exceed the maximum speed limits so long as he does not endanger life or property;
- (d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions granted to an authorized emergency or police vehicle shall apply when necessary to warn and to make use of an audible signal having a decibel rating of at least one hundred (100) at a distance of ten (10) feet and/or is displaying a flashing light visible in a 360 degree arc at a distance of one thousand (1,000) feet under normal atmospheric conditions.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons, nor shall these provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(5) The foregoing provisions shall apply to the driver of an authorized emergency or police vehicle of another state of the United States who enters this state in response to an emergency call, or when in the fresh pursuit of a suspected felon as provided in section [19-701](#), Idaho Code, or when responding to but not upon returning from a fire alarm.

**49-624. DRIVER DUTY UPON APPROACHING A STATIONARY POLICE VEHICLE OR AN AUTHORIZED EMERGENCY VEHICLE DISPLAYING FLASHING LIGHTS.** The driver of a motor vehicle, upon approaching a stationary police vehicle displaying flashing lights or an authorized emergency vehicle displaying flashing lights shall:

(1) If the driver is traveling on a highway with two (2) or more lanes carrying traffic in the same direction, immediately reduce the speed of his vehicle below the posted speed limit, proceed with due caution and, if traveling in a lane adjacent to the stationary police vehicle displaying flashing lights or the authorized emergency vehicle displaying flashing lights, change lanes into a lane that is not adjacent to such vehicle as soon as it is possible to do so in a manner that is reasonable and prudent under the conditions then existing, with regard to actual and potential hazards.

(2) If the driver is traveling on a highway with one (1) lane for each direction of travel, immediately reduce the speed of his vehicle below the posted speed limit, and maintain a safe speed for the road, weather and traffic conditions until completely past the stationary police vehicle or authorized emergency vehicle.



**49-625. OPERATION OF VEHICLES ON APPROACH OF AUTHORIZED EMERGENCY OR POLICE VEHICLES.**

(1) Upon the immediate approach of an authorized emergency or police vehicle making use of an audible or visible signal, meeting the requirements of section 49-623, Idaho Code, the driver of every other vehicle shall yield the right-of-way and immediately drive to a position parallel to, and as close as possible to, the nearest edge or curb of the highway lawful for parking and clear of any intersection, and stop and remain in that position until the authorized emergency or police vehicle has passed, except when otherwise directed by a peace officer.

(2) This section shall not operate to relieve the driver of an authorized emergency or police vehicle from the duty to drive with due regard for the safety of all persons using the highway.

**49-910A. COLOR OF LAMPS AND GLOBES LIMITED TO CERTAIN VEHICLE CLASSES.** For the purposes of this chapter lighting devices utilizing various colors of lighted globes approved by the director of the Idaho state police for use on vehicles shall be restricted to the following class of vehicles:

(1) Police vehicles. Only police vehicles shall display blue lights, lenses or globes.

(2) Designated emergency vehicles. Fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, sheriff's search and rescue vehicles which are under the immediate supervision of the county sheriff, and wreckers, as defined in section 49-124, Idaho Code, which are engaged in motor vehicle recovery operations and are blocking part or all of one or more lanes of traffic, are designated emergency vehicles. With the exception of school buses as provided in section 49-915, Idaho Code, only fire fighting vehicles, vehicles belonging to personnel of voluntary fire departments, vehicles belonging to, or operated by EMS personnel certified or otherwise recognized by the EMS bureau of the Idaho department of health and welfare while in the performance of emergency medical services, ambulances, designated emergency vehicles described herein, vehicles authorized by the Idaho transportation board for use in the enforcement of vehicle laws specified in section 40-510, Idaho Code, and other emergency vehicles designated by the director of the Idaho state police may display red flashing lights or red lenses or globes which are visible from the front of the vehicle.

(3) All vehicles. Any motor vehicle may have attached to it a flashing amber light to warn motorists of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing the vehicle displaying such lighting. The driver of an approaching vehicle shall yield the right-of-way to any stationary vehicle displaying a flashing amber light.

**49-920. ADDITIONAL LIGHTING EQUIPMENT.**

(1) Any motor vehicle may be equipped with not more than two (2) side cowl or fender lamps which shall emit an amber or white light without glare.

(2) Any motor vehicle may be equipped with not more than one (1) running-board courtesy lamp on each side which shall emit a white or amber light without glare.

(3) Any motor vehicle may be equipped with not more than two (2) back-up lamps either separately or in combination with other lamps, but any back-up lamp shall not be lighted when the motor vehicle is in forward motion.

(4) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display that warning in addition to any other warning signals required by this title. Lamps used to display the warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneously flashing white or amber lights, or any shade or color between white and amber. The lamps used to display the warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred (500) feet under normal atmospheric conditions at night.

(5) Any commercial vehicle eighty (80) inches or more in overall width may be equipped with not more than three (3) identification lamps showing to the front which shall emit an amber light without glare, and not more than three (3) identification lamps showing to the rear which shall emit a red light without glare. These lamps shall be placed in a row and may be mounted either horizontally or vertically.

**TITLE 54 PROFESSIONS, VOCATIONS, AND BUSINESS - (*Specific to the State Athletic Commission regarding Boxing, Wrestling and Martial Arts*)**

**54-421. EMERGENCY MEDICAL EQUIPMENT AND PERSONNEL.** A promoter shall have an ambulance or paramedical unit with appropriate resuscitation equipment continuously present at the event site during the performance of all contests, and exhibitions in case a serious injury occurs.

**54-1804. UNLICENSED PRACTICE -- PENALTIES AND REMEDIES RELATING TO UNLICENSED PRACTICE.**

(1) Under the circumstances described and subject in each case to limitations stated, the following persons, though not holding a license to practice medicine in this state, may engage in activities included in the practice of medicine:

- (a) A medical officer of the armed forces of the United States, of the United States public health service, or of the United States department of veterans affairs, while engaged in the performance of his official duties;
- (b) A person residing in another state or country and authorized to practice medicine there, who is called in consultation by a person licensed in this state to practice medicine, or who for the purpose of furthering medical education is invited into this state to conduct a lecture, clinic, or demonstration, while engaged in activities in connection with the consultation, lecture, clinic, or demonstration, so long as he does not open an office or appoint a place to meet patients or receive calls in this state;
- (c) A person authorized to practice medicine in another state or country while rendering medical care in a time of disaster or while caring for an ill or injured person at the scene of an emergency and while continuing to care for such person;
- (d) An extern, intern or resident who is registered with the board as provided in this chapter and while engaged in programs authorized pursuant to rules of the board or a physician assistant licensed by the board;
- (e) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine;
- (f) A person engaged in good faith in the practice of the religious tenets of any church or religious beliefs;
- (g) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;
- (h) A person rendering aid in an emergency, where no fee for the service is contemplated, charged or received. This exception shall specifically include ski patrollers who are members of the national ski patrol system, inc., and are trained in and holding a current outdoor emergency care (OEC) credential, as issued by the national ski patrol system, inc., while rendering aid in accordance with the standards of training of such credential, where no fee for the service is contemplated, charged or received, and in the course of alpine, nordic or cross-country skiing and other recreational activities conducted in whole or in part at ski areas in the state of Idaho;
  - (i) A person administering a family remedy to a member of the family;
  - (j) A person who administers treatment or provides advice regarding the human body and its functions that:
    - (i) Does not use legend drugs or prescription drugs in such practice;
    - (ii) Uses natural elements such as air, heat, water and light;
    - (iii) Only uses class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug and cosmetic act;
    - (iv) Only uses vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements; and who
    - (v) Does not perform surgery;
    - (vi) Requires each person receiving services to sign a declaration of informed consent which includes an overview of the health care provider's education which states that the health care provider is not an "M.D." or "D.O." and is not licensed under the provisions of this chapter.

(2) Except as provided in subsection (1) of this section, it shall constitute a felony for any person to practice medicine in this state without a license and upon conviction thereof shall be imprisoned in the state prison for a period not to exceed five (5) years, or shall be fined not more than ten thousand dollars (\$10,000), or shall be punished by both such fine and imprisonment.

(3) Except as provided in subsections (1)(a), (1)(b), and (1)(c) above, it is unlawful for any person to assume or use the title or designation "medical doctor," "medical physician," "osteopathic doctor," "osteopathic physician," "M.D." or "D.O." or any other title, designation, words, letters, abbreviation, sign, card, or device to indicate to the public that such person is licensed to practice medicine pursuant to this chapter unless such person is so licensed, and upon conviction thereof, such person shall be imprisoned not to exceed one (1) year, or shall be fined not more than three thousand dollars (\$3,000), or shall be punished by both fine and imprisonment.

(4) When a person has been the recipient of services constituting the unlawful practice of medicine, whether or not he knew the rendition of the services was unlawful, proof of the rendition of such unlawful services by the recipient or his personal representative in an action against the provider of such services for damages allegedly caused by the services constitutes prima facie evidence of negligence shifting the burden of proof to such provider of unlawful services. The following damages in addition to any other remedies provided by law may be recovered in such an action:

(a) The amount of any fees paid for the unlawful services.

(b) Reasonable attorney's fees and court costs.

(5) The board shall refer all violations of this section made known to it to appropriate prosecuting attorneys. The board may render assistance to a prosecuting attorney in the prosecution of a case pursuant to this section.

## **TITLE 56 PUBLIC ASSISTANCE AND WELFARE**

**56-1003. POWERS AND DUTIES OF THE DIRECTOR.** The director shall have the following powers and duties:

(1) All of the powers and duties of the department of public health, the department of health, the board of health and all nonenvironmental protection duties of the department of health and welfare are hereby vested to the director of the department of health and welfare. Provided however, that oversight of the department and rulemaking and hearing functions relating to public health and licensure and certification standards shall be vested in the board of health and welfare. Except when the authority is vested in the board of health and welfare under law, the director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law, including the authority to adopt, promulgate, and enforce rules, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All rulemaking proceedings and hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this chapter, formulate and recommend to the board rules, codes and standards, as may be necessary to deal with problems related to personal health, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of law relating to any purpose which may be necessary and feasible for enforcing the provisions of this chapter including, but not limited to, the maintenance and protection of personal health. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules, codes or standards adopted by him, shall have the general supervision of the promotion and protection of the life, health and mental health of the people of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board;

(b) The supervision and administration of laboratories and the supervision and administration of standards of tests for environmental pollution, chemical analyses and communicable diseases. The director may require that laboratories operated by any city, county, institution, person, firm or corporation for health or environmental purposes conform to standards set by the board of health and welfare and the board of environmental quality;

(c) The supervision and administration of a mental health program, which shall include services for the evaluation, screening, custody and treatment of the mentally ill and those persons suffering from a mental defect, or mental defects;

(d) The enforcement of minimum standards of health, safety and sanitation for all public swimming pools within the state;

(e) The supervision and administration of the various schools, hospitals and institutions that were the responsibility of the board of health;

(f) The supervision and administration of services dealing with the problems of alcoholism including, but not limited to, the care and rehabilitation of persons suffering from alcoholism;

(g) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of health problems. All of the rules and standards adopted by the board shall apply to state institutions;

(h) The supervision and administration of an emergency medical service program including, but not limited to, assisting other governmental agencies and local governmental units, in providing first aid emergency medical services and for transportation of the sick and injured;

(i) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of health problems;

- (j) The enforcement of all laws, rules, codes and standards relating to health.
- (4) The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government.
- (5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporations for facilities, land, and equipment when such use will have a beneficial, recreational, or therapeutic effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

- (6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.
- (7) The director, under rules adopted by the board of health and welfare, shall have the power to impose and enforce orders of isolation and quarantine to protect the public from the spread of infectious or communicable diseases or from contamination from chemical or biological agents, whether naturally occurring or propagated by criminal or terrorist act.

- (a) An order of isolation or quarantine issued pursuant to this section shall be a final agency action for purposes of judicial review. However, this shall not prevent the director from reconsidering, amending or withdrawing the order. Judicial review of orders of isolation or quarantine shall be de novo. The court may affirm, reverse or modify the order and shall affirm the order if it appears by a preponderance of the evidence that the order is reasonably necessary to protect the public from a substantial and immediate danger of the spread of an infectious or communicable disease or from contamination by a chemical or biological agent.
- (b) If the director has reasonable cause to believe a chemical or biological agent has been released in an identifiable place, including a building or structure, an order of quarantine may be imposed to prevent the movement of persons into or out of that place, for a limited period of time, for the purpose of determining whether a person or persons at that place have been contaminated with a chemical or biological agent which may create a substantial and immediate danger to the public.
- (c) Any person who violates an order of isolation or quarantine shall be guilty of a misdemeanor.

**56-1008. CRIMINAL VIOLATION -- PENALTY.** Any person who willfully or negligently violates any of the provisions of the public health laws or the terms of any lawful notice, order, permit, standard, or rule issued pursuant thereto, shall be guilty of a misdemeanor.

**56-1009. INVESTIGATION -- INSPECTION -- RIGHT OF ENTRY -- VIOLATION -- ENFORCEMENT -- PENALTY -- INJUNCTIONS.**

- (1) The director shall cause investigations to be made upon receipt of information concerning an alleged violation of this chapter or of any rule, permit or order promulgated thereunder, and may cause to be made such other investigations as the director shall deem advisable.
- (2) For the purpose of enforcing any provision of this chapter or any rule authorized in this chapter, the director or the director's designee shall have the authority to:
  - (a) Conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential health hazards;
  - (b) Enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigating to ascertain possible violations of this chapter or of rules, permits or orders adopted and promulgated by the director or the board;
  - (c) All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and section 17, article I, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health emergency;
  - (d) Any district court in and for the county in which the subject property is located is authorized to issue a search warrant to the director upon a showing of
    - (i) probable cause to suspect a violation, or

- (ii) the existence of a reasonable program of inspection. Any search warrant issued under the authority of this chapter shall be limited in scope to the specific purposes for which it is issued and shall state with specificity the manner and the scope of the search authorized.
- (3) Whenever the director determines that any person is in violation of any provision of this chapter or any rule, permit or order issued or promulgated pursuant to this chapter, the director may commence either of the following:
  - (a) Administrative enforcement action.
    - (i) Notice. The director may commence an administrative enforcement action by issuing a written notice of violation. The notice of violation shall identify the alleged violation with specificity, shall specify each provision of the chapter, rule, regulation, permit or order which has been violated, and shall state the amount of civil penalty claimed for each violation. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation. A written response may be required within fifteen (15) days of receipt of the notice of violation by the person to whom it is directed.
    - (ii) Scheduling compliance conference. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the date of receipt of the notice, unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in paragraph (b) of this subsection.
    - (iii) Compliance conference. The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying damage caused by the alleged violation and assuring future compliance.
    - (iv) Consent order. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty.
    - (v) Effect of consent order. A consent order shall be effective immediately upon signing by both parties and shall preclude any civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain, in any appropriate district court, specific performance of the consent order and such other relief as authorized in this chapter.
    - (vi) Failure to reach consent order. If the parties cannot reach agreement on a consent order within sixty (60) days after the receipt of the notice of violation or if the recipient does not request a compliance conference pursuant to paragraph (a)(ii) of this section, the director may commence and prosecute a civil enforcement action in district court, in accordance with subsection (b) of this section.
  - (b) Civil enforcement action. The director may initiate a civil enforcement action through the attorney general as provided in section 56-1010, Idaho Code. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have violated any provision of this chapter or any rule, permit or order which has become effective pursuant to this chapter. Such action may be brought to compel compliance with any provision of this chapter or with any rule, permit or order promulgated hereunder and for any relief or remedies authorized in this chapter. The director shall not be required to initiate or prosecute an administrative action before initiating a civil enforcement action.
- (4) No civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or a violation of any rule, permit or order issued or promulgated pursuant to this chapter, more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation.
- (5) Monetary penalties.
  - (a) Any person determined in a civil enforcement action to have violated any provision of this chapter or any rule, permit or order promulgated pursuant to this chapter shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation, whichever is greater. The method of recovery of said penalty shall be by a civil enforcement action in the district court in and for the county where the violation occurred. All civil penalties collected under this chapter shall be paid into the general fund of the state. Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection.
  - (b) The imposition or computation of monetary penalties may take into account the seriousness of the violation and any good faith efforts by the person to comply with the law.

(6) In addition to such civil penalties, any person who has been determined to have violated the provisions of this chapter or the rules, permits or orders promulgated thereunder, shall be liable for any expense incurred by the state in enforcing the chapter, or in enforcing or terminating any nuisance, cause of sickness or health hazard.

(7) No action taken pursuant to the provisions of this chapter or of any other health law shall relieve any person from any civil action and damages that may exist for injury or damage resulting from any violation of this chapter or of the rules, permits and orders promulgated thereunder.

(8) In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt any activity in violation of the provisions of this chapter or rules, permits and orders promulgated thereunder. In such action the court may issue an ex parte restraining order.

**56-1010. COMMENCEMENT OF CIVIL ENFORCEMENT ACTIONS -- CRIMINAL ACTIONS AUTHORIZED -- DUTIES OF ATTORNEY GENERAL.** Upon request of the director, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in section 56-1009, Idaho Code, and to prosecute actions or proceedings for the enforcement of any criminal provisions of this chapter. In addition, when deemed by the director to be necessary, the director may retain or employ private counsel. The attorney general may delegate the authority and duty under this section to prosecute criminal actions to the prosecuting attorney of the county in which such a criminal action may arise.

**56-1011. EMERGENCY MEDICAL SERVICES -- STATEMENT OF INTENT.** It is the purpose of the legislature of the state of Idaho in the adoption of sections 56-1011 through 56-1023, Idaho Code, to recognize the importance of the delivery of emergency medical services and to provide reasonable regulation of the same. For this purpose, the provisions of section 54-1804, Idaho Code, shall not be so construed as to prohibit or penalize emergency medical services rendered by a person authorized to render emergency medical services by sections 56-1011 through 56-1023, Idaho Code, if such emergency medical service is rendered under the responsible supervision and control of a licensed physician.

**56-1012. DEFINITIONS.** As used in sections 56-1011 through 56-1023, Idaho Code:

(1) "Advanced emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(2) "Agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(3) "Air ambulance" means any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(4) "Air medical service" means an agency licensed by the EMS bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft.

(5) "Ambulance" means any privately or publicly owned motor vehicle, or nautical vessel used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rules.

This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(6) "Ambulance service" means an agency licensed by the EMS bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport.

(7) "Applicant" means any organization that is requesting an agency license under this chapter and includes the following:

- (a) An organization seeking a new license;
- (b) An existing agency that intends to change the level of licensed personnel it utilizes;
- (c) An existing agency that intends to change its geographic coverage area, except by agency annexation;
- (d) An existing nontransport service that intends to provide ambulance service;

- (e) An existing ambulance service that intends to discontinue transport and become a nontransport service.
- (8) "Board " means the Idaho board of health and welfare.
- (9) "Commission" means the Idaho emergency medical services physician commission.
- (10) "Department" means the Idaho department of health and welfare.
- (11) "Emergency medical responder" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.
- (12) "Emergency medical services" or "EMS" means the system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.
- (13) "EMS bureau" means the bureau of emergency medical services of the department.
- (14) "Emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.
- (15) "Licensed personnel" means those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics.
- (16) "National emergency medical services information system technical assistance center" means an organization that validates software for compliance with the EMS data set defined by the United States department of transportation national highway traffic safety administration.
- (17) "Nontransport service" means an agency licensed by the EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.
- (18) "Nontransport vehicle" means any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.
- (19) "Paramedic" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.
- (20) "Supervision" means the medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical or nontransport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, providing instructions for patient care via radio or telephone, and other oversight.
- (21) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

**56-1013. AUTHORIZED ACTIONS.** Persons licensed by the EMS bureau shall be authorized to perform such acts under written or oral authorization of a licensed physician as shall be established by rules of the commission, including, but not limited to, administration of intravenous solutions and drugs, cardiac defibrillation, airway management, endotracheal intubation, and other patient care.

**56-1013A. IDAHO EMERGENCY MEDICAL SERVICES PHYSICIAN COMMISSION – TERMS AND OPERATION.**

- (1) There is hereby created in the department an Idaho emergency medical services physician commission for the purpose of establishing standards for scope of practice and medical supervision for licensed personnel and agencies licensed by the EMS Bureau, and for making disciplinary action recommendations to the EMS Bureau against licensed personnel. Notwithstanding any other provision of law to the contrary, the commission shall exercise its powers and duties in accordance with the provisions of sections 56-1011 through 56-1023, Idaho Code, relative to scope of practice and medical supervision of licensed personnel.
- (2) The commission shall be composed of eleven (11) voting members appointed by the governor upon assurance of equitable geographic and rural representation. Six (6) members shall be physicians currently licensed in Idaho and appointed as follows: one (1) member representing the Idaho board of medicine as provided in chapter 18, title 54, Idaho Code, one (1) member representing the Idaho medical association, one (1) member representing the EMS bureau, one (1) member representing the Idaho chapter of the American college of emergency physicians, one (1)

member representing the Idaho chapter of the American academy of pediatrics and one (1) member representing the Idaho chapter of the American college of surgeons committee on trauma. Three (3) members shall be physicians currently licensed in Idaho and practicing as an EMS medical director representing the following associations: one (1) member representing the Idaho association of counties, one (1) member representing the Idaho fire chiefs association and one (1) member representing the Idaho hospital association. Two (2) members shall be Idaho citizens representing the public interest.

(3) Except as provided in this subsection, members of the commission shall be appointed for a term of three (3) years. The following four (4) members shall be appointed to an initial term of two (2) years: the member representing the board of medicine, the member representing the Idaho chapter of the American college of emergency physicians, the member representing the Idaho chapter of the American college of surgeons committee on trauma and the member representing the Idaho fire chiefs association. The remaining seven (7) members shall be appointed for an initial term of three (3) years. Thereafter, all terms shall be for a period of three (3) years.

(4) The commission shall elect a chair and such officers as it may deem necessary and appropriate. The commission shall meet at least annually and at the call of the chair. Members of the commission shall be compensated as provided in section 59-509(b), Idaho Code.

(5) Prior to the expiration of the regular term of a member of the commission or upon the occurrence or declaration of a vacancy in the membership of the commission, the EMS bureau shall notify the represented entity of that fact in writing and the represented entity shall, within sixty (60) days thereafter, nominate at least three (3) persons to fill the vacancy in a manner as shall be determined by the rules and bylaws of the represented entity and shall forward the nominations to the governor, who shall appoint from among the nominees a person to be a member of the commission to fill the vacancy. Persons nominated for a seat held by a physician must be licensed by the state of Idaho to practice medicine.

(6) Moneys collected pursuant to rules promulgated by the board for initial applications and renewal of EMS personnel licenses are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this section as determined by the commission.

(7) The commission shall prepare a budget on an annual basis indicating that portion of the funds necessary for the continuous operation of the commission to achieve the purposes of this section.

#### **56-1014. LIABILITY.**

(1) No act or omission of any person who is duly licensed under sections [56-1011](#) through [56-1023](#), Idaho Code, by the EMS bureau done or omitted in good faith while rendering emergency medical services to a person or persons who are perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury shall impose any liability upon those personnel, the supervising physician, the hospital, the organization providing the service, or upon a federal, state, county, city or other local governmental unit, or upon employees of such governmental unit, unless such provider of care or such personnel be shown to have caused injury and damages to such person or persons as a proximate result of his, her or their reckless or grossly negligent misconduct, which shall be the sole grounds for civil liability of such persons in the provision of care or assistance under sections [56-1011](#) through [56-1023](#), Idaho Code, regardless of the circumstance under which such care or assistance may be provided. This section shall not relieve the organization or agency operating the service from the duty of securing, maintaining and operating, the equipment and licensure designated for use in performing the emergency medical services.

(2) The provisions of subsection (1) of this section shall apply to licensed personnel of another state of the United States who enter this state in response to an emergency to render emergency medical services to a person who is perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

**56-1015. FAILURE TO OBTAIN CONSENT.** No person licensed under sections 56-1011 through 56-1023, Idaho Code, or physician or hospital licensed in this state shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital or health services to any individual regardless of age where that individual is unable to give this consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care, provided, however, that such person, physician, or hospital has acted in good faith and without knowledge of facts negating consent. The provision or refusal of consent under sections 56-1011 through 56-1023, Idaho Code, shall be governed by chapter 45, title 39, Idaho Code.



**56-1016. AGENCY MINIMUM STANDARDS.** Each ambulance service, air medical service, and nontransport service shall be licensed by the EMS bureau based on the level of licensed personnel it utilizes, transport capability and self-declared geographic coverage area and shall meet the following standards:

- (1) Personnel during transport or transfer -- There shall be at least two (2) crew members on each patient transport or transfer, with the crew member delivering patient care being, at a minimum, a licensed emergency medical technician (EMT).
- (2) Dispatch -- Each licensed EMS agency shall have a twenty-four (24) hour dispatch arrangement and shall respond to calls on a twenty-four (24) hour a day basis.
- (3) Agency inspections and licensing -- The EMS bureau shall conduct inspections at least annually related to agency licensing or shall contract to have the inspections carried out. Each agency shall have a current state license in order to operate.
- (4) Ambulance service minimum standards waiver -- The controlling authority providing ambulance services may petition the board for waiver of the ambulance standards of section 56-1016(2), Idaho Code, if compliance with these standards would cause undue hardship on the community being served, or would result in abandonment of ambulance services.
- (5) Non-transport service minimum standards waiver -- The controlling authority providing non-transport services may petition the EMS bureau for waiver of the twenty-four (24) hour response requirement of this section if the petition demonstrates that the community, setting, industrial site, or event is not populated on a twenty-four (24) hour basis or does not exist on a three hundred and sixty five (365) day per year basis or if compliance with these standards would cause undue hardship on the community being served, or would result in abandonment of nontransport services.
- (6) Supervision -- A licensed physician shall supervise the medical activities provided by licensed personnel affiliated with the licensed agency including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, approving methods for licensed personnel to receive instructions for patient care via radio, telephone, or in person, and other oversight as provided in the rules of the commission.
- (7) Applicants must submit the following information with their application and agree to meet the following requirements as a condition of licensure:
  - (a) A declaration of anticipated applicant agency costs and revenues; a statement of projected changes in response time; and a narrative describing projected clinical benefits to patients resulting from licensure using methods defined in board rules concerning such matters on an application provided by the EMS bureau; and
  - (b) Collect and report data to the EMS bureau upon receiving a license using a data collection system that is validated as compliant by the national emergency medical services information system technical assistance center in accordance with board rules.
- (8) The EMS bureau will provide notice of any such application to all cities, counties and other units of local government that have any geographic coverage area in common with the applicant in accordance with board rules. Such notice will include a summary of the applicant data supplied to the EMS bureau. Any other EMS bureau use of the cost and revenue data supplied by applicants is limited exclusively to informational purposes.
- (9) Appeal of a denial of an applicant's license will be governed by IDAPA 16.05.03, rules governing contested case proceedings and declaratory rulings.

**56-1018. EMERGENCY MEDICAL SERVICES FUND.** There is hereby created in the dedicated fund of the state treasury a fund known as the "Emergency Medical Services Fund." Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purposes of emergency medical services training, communications, vehicle and equipment grants, and other programs furthering the goals of highway safety and emergency response providing medical services at motor vehicle accidents.

**56-1018A.EMERGENCY MEDICAL SERVICES FUND II.** There is hereby created in the dedicated fund of the state treasury a fund known as the emergency medical services fund II. Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purposes of emergency medical services.

**56-1018B.EMERGENCY MEDICAL SERVICES FUND III.**

- (1) There is hereby created in the dedicated fund of the state treasury a fund known as the emergency medical services fund III. Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purpose of acquiring vehicles and equipment for use by emergency medical services personnel in the performance of their duties which include highway safety and emergency response to motor vehicle accidents.

(2) The bureau of emergency medical services of the department of health and welfare shall be responsible for distributing moneys from the fund to qualifying nonprofit and governmental entities that submit an application for a grant from the fund. The bureau shall approve grants based on the following criteria:

- (a) The requesting entity is a nonprofit or governmental entity which holds a current license as an ambulance or nontransport service issued by the state of Idaho;
- (b) The requesting entity has demonstrated need based on criteria established by the bureau;
- (c) The requesting entity has provided verification that it has received the approval and endorsement of a city or county within its service area;
- (d) The requesting entity has certified that the title to any vehicle purchased with funds from the fund shall be in the name of the city or county which endorsed the application and shall submit proof of titling as soon as practicable;
- (e) The state of Idaho shall retain a security interest in the vehicle to secure the performance of the grant recipient to utilize the vehicle consistent with the intent described in the application.

(3) Notwithstanding the requirements of subsections (2)(c) and (2)(d) of this section, the bureau of emergency medical services is authorized to approve and issue a grant to an applicant in the absence of an endorsement if the endorsement is withheld without adequate justification.

**56-1020. PENALTIES FOR PERSONNEL LICENSE VIOLATIONS.** Any person who practices or attempts to practice EMS as a licensed provider of emergency care as provided for in sections 56-1011 through 56-1023, Idaho Code, without having at the time of so doing a valid, unexpired, unrestricted, un-revoked and unsuspended license issued by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, shall be guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for not more than six (6) months, or both, for each violation. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the alleged violation, the attorney general is authorized to prosecute the alleged violation.

**56-1021. PENALTIES FOR AGENCY LICENSE VIOLATIONS.** Any person establishing, conducting, managing or operating any agency as provided for in sections 56-1011 through 56-1023, Idaho Code, without a license issued by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, shall be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than six (6) months, or both. Each day of continuing violation shall constitute a separate offense. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the alleged violation, the attorney general is authorized to prosecute the alleged violation.

**56-1022. PERSONNEL AND AGENCIES LICENSURE ACTIONS – GROUNDS – PROCEDURE.**

(1) Subject to the provisions of chapter 52, title 67, Idaho Code, the EMS bureau, upon recommendation of the commission, may deny a license or refuse to renew a license for a person, or may suspend or revoke a license or may impose probationary conditions if the holder of a license or the applicant for a license has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Such unprofessional conduct includes, but is not limited to:

- (a) Obtaining a license by means of fraud, misrepresentation or concealment of a material fact;
- (b) Being found guilty of unprofessional conduct as defined by rule established by the board;
- (c) Being convicted of a crime which would have a direct and adverse bearing on the licensee's ability to practice or perform emergency medical care competently;
- (d) The unauthorized practice of medicine;
- (e) Violating any provisions of sections 56-1011 through 56-1023, Idaho Code, or any of the rules established by the board or the commission thereunder; or
- (f) Being found mentally incompetent by a court of competent jurisdiction.

(2) Subject to the provisions of chapter 52, title 67, Idaho Code, the EMS bureau may deny, revoke or refuse to renew a license of an agency, or may impose probationary conditions or fines as a condition of an agency's ability to retain a license in accordance with board rule.

(3) A denial, refusal to renew, suspension, revocation or imposition of probationary conditions upon a license may be ordered by the EMS bureau after opportunity for a hearing in a manner provided by rule established by the board. An application for reinstatement may be filed with the EMS bureau one (1) year from the date of license revocation. In the event a timely application is filed, the EMS bureau shall:

- (a) Hold a hearing to consider such reinstatement; and

- (b) Accept or reject the application for reinstatement.

**56-1023. RULES.**

- (1) The commission is authorized and directed to adopt appropriate rules defining the allowable scope of practice and acts and duties which can be performed by persons licensed by the EMS bureau and the required level of supervision by a licensed physician.
- (2) The board is authorized and directed to adopt appropriate rules and standards concerning the administration of sections 56-1011 through 56-1022 and this section, Idaho Code, including criteria for educational programs, certification and licensure of personnel, certification of EMS instructors, licensure of ambulance, air medical and nontransport services, manufacturing standards for ambulances and nontransport vehicles, criteria for the use of air medical services by licensed EMS personnel at emergency scenes, establishment of fees for training, inspections and licensure, appropriate requirements for renewal of licensure of personnel and agencies and the management of complaints, investigations and license actions against licensed EMS personnel and agencies. The rules of the board must be consistent with the rules adopted by the commission.
- (3) Additionally, the department shall develop guidelines, standards and procedures for reducing exposure to pathogens from human blood, tissue or fluids. Such guidelines, standards and procedures shall be made available to all law enforcement personnel, all emergency medical services personnel and agencies, and such other emergency personnel as request such information.

**56-1036. LEGISLATIVE INTENT.**

- (1) The legislature finds that accidental poisoning is a serious public health problem in the state of Idaho and is a problem that disproportionately affects Idaho's children. It further finds that a significant reduction in the morbidity and mortality resulting from such accidental poisonings has occurred as a result of the services provided by the poison control center.
- (2) The purpose of sections 56-1036 through 56-1040, Idaho Code, is to declare legislative support for the important work of the poison control center and to assure, by statute, the continued existence of the poison control center.
- (3) The legislature finds that the poison control center has saved lives and reduced suffering associated with poisoning by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care professionals, and by providing public education and prevention programs.
- (4) The legislature recognizes that enhanced cooperation between the emergency medical system and poison control centers will aid in responding to emergencies resulting from exposure to poisons and that, by providing telephone assistance to individuals with possible exposure to poisons, the need for emergency room and professional office visits will be reduced. As a result, the cost of health care to those who may have been poisoned will be avoided or reduced and appropriate treatment will be assured.

**56-1037. POISON CONTROL CENTER ESTABLISHED -- SERVICES OFFERED.** The director of the department of health and welfare (for purposes of sections 56-1036 through 56-1040, Idaho Code, "director") shall establish, and provide support in a manner consistent with sections 56-1036 through 56-1040, Idaho Code, a statewide poison control center. The poison control center shall offer the following services:

- (1) Provide twenty-four (24) hour emergency telephone management and treatment referral of victims of poisoning to include determining whether treatment can be accomplished at the scene of the incident or transport to an emergency treatment or other facility is required, and carrying out telephone follow-up to families and other individuals to assure that adequate care is provided;
- (2) Provide information to health professionals involved in management of poisoning and overdose victims; and
- (3) Provide coordination and development of community education programs designed to inform the public and members of the health professions of poison prevention and treatment methods and to improve awareness of poisoning problems, occupational risks and environmental exposures.

**56-1038. COORDINATION WITH OTHER AGENCIES.** The director shall establish a system for consulting with other state agency programs concerned with poisons and poisonings, incidents involving exposures to potentially poisonous substances, and other toxicological matters to develop the most coordinated and consistent response to such situations as is reasonably possible.

**56-1039. POWER TO ACCEPT FEDERAL FUNDS AND GIFTS.** The director may accept federal funds granted by congress or executive order, as well as gifts, grants, endowments and/or donations from individuals and private organizations or foundations for all or any of the purposes of the poison control center.

**56-1040. RULEMAKING AUTHORITY.** The director shall adopt rules necessary to administer sections 56-1036 through 56-1040, Idaho Code, pursuant to chapter 52, title 67, Idaho Code.

**56-1054. HEALTH QUALITY PLANNING. [Repealed effective July 1, 2010.]**

(1) It is the intent of the legislature that the department of health and welfare ("the department") promote improved quality of care and improved health outcomes through investment in health information technology and in patient safety and quality initiatives in the state of Idaho.

(a) Coordinated implementation of health information technology in Idaho will establish widespread use of networked electronic health information or health records to allow quick, reliable and secure access to that information in order to promote patient safety and best practices in health care. This goal is consistent with the mission of the office of the national coordinator for health information technology, established by the president of the United States in 2004, to provide leadership for the development and nationwide implementation of an interoperable health information technology infrastructure to improve the quality and efficiency of health care and the ability of consumers to manage their care and safety.

(b) Coordinated implementation of statewide patient safety standards will identify uniform indicators of and standards for clinical quality and patient safety as well as uniform requirements for reporting provider achievement of those indicators and standards.

(2) There is hereby created and established within the department a health quality planning commission ("the commission").

(a) By May 1, 2006, and as needed after that date, the governor shall appoint eleven (11) voting members upon assurance of equitable geographic and rural representation, comprising members of the public and private sectors with expertise in health information technology and clinical quality and patient safety. The membership shall represent all major participants in the health care delivery and financing systems. A majority of the commission shall be health care providers or employees of health care providers. One (1) member shall be an Idaho resident representing the public interest. The commission chairperson shall be appointed by the director of the department.

(b) Members of the commission shall be appointed for a term of two (2) years. The term of office shall commence on July 1, 2006. As terms of commission members expire, the governor shall appoint each new member or reappointed member to a term of two (2) years in a manner that is consistent with subsection (a) of this section.

(c) The commission shall meet quarterly and at the call of the chairperson.

(d) Each member of the commission shall be compensated as provided by section [59-509](#)(d), Idaho Code.

(e) Upon the occurrence or declaration of a vacancy in the membership of the commission, the department shall notify the represented entity of that fact in writing and the represented entity shall, within sixty (60) days thereafter, nominate at least one (1) and not more than three (3) persons to fill the vacancy and shall forward the nominations to the governor, who shall appoint from among the nominees a person to be a member of the commission to fill the vacancy. Such appointments shall be for a term of two (2) years.

(f) Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, or the inability to discharge the duties described in this section, after written notice and opportunity for response.

(g) A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of commission duties.

(3) The department may dedicate funding to the operations of the commission, subject to appropriation from the legislature. The department shall seek federal matching funds and additional private sector funding for commission operations.

(4) The commission shall perform the following duties related to health information technology planning:

(a) Monitor the effectiveness of the Idaho health data exchange; and

(b) Make recommendations to the legislature and the department on opportunities to improve the capabilities of health information technology in the state.

(5) The commission may use the information generated by the Idaho health data exchange and other data sources to promote health and patient safety planning. The commission may perform the following duties related to health quality and patient safety planning, provided that performance of these duties may include contracting with and supervising independent entities for the performance of some or all of these duties:

- (a) Analyze existing clinical quality assurance and patient safety standards and reporting;
- (b) Identify best practices in clinical quality assurance and patient safety standards and reporting;
- (c) Recommend a mechanism or mechanisms for the uniform adoption of certain best practices in clinical quality assurance and patient safety standards and reporting including, but not limited to, the creation of regulatory standards;
- (d) Monitor and report appropriate indicators of quality and patient safety;
- (e) Recommend a sustainable structure for leadership of ongoing clinical quality and patient safety reporting in Idaho;
- (f) Recommend a mechanism or mechanisms to promote public understanding of provider achievement of clinical quality and patient safety standards;
- (g) Provide quarterly progress reports to the director of the department and to the legislative health care task force. An annual report shall be due to the director, the legislative health care task force and the senate and house of representatives health and welfare committees on June 30 of each year; and
- (h) In regard to the commission's duties provided for in this section, the commission is directed to ensure that such duties are developed and implemented in such a manner and in such forms or formats as to result in health care data that will be readily understood by the citizens of this state.

## **TITLE 57 PUBLIC FUNDS IN GENERAL**

### **57-2001. PURPOSE OF THE REGISTRY.**

- (1) The specific issues to be identified and evaluated through the trauma registry are:
  - (a) Injury surveillance;
  - (b) Geographic patterns of trauma incidence;
  - (c) Types of injuries treated in hospitals in Idaho;
  - (d) Areas or regions of the state where improvements in the emergency medical system may be needed;
  - (e) Public education and prevention needs and efforts; and
  - (f) Other factors to consider in recommending, designing or implementing a statewide trauma system.
- (2) The data collected by the trauma registry shall be of such a nature as to allow the department to identify at least the following:
  - (a) Access to care;
  - (b) Performance of the out-of-hospital and hospital emergency medical systems;
  - (c) Costs of trauma care; and
  - (d) Outcomes of persons who are victims of trauma.
- (3) The department shall evaluate the data collected, as well as data collected from other relevant sources, and, beginning one (1) year after the effective date of this chapter, shall prepare an annual report.

### **57-2002. TRAUMA REGISTRY -- DEFINITIONS.** When used in this chapter:

- (1) "Confidential information" means information which may identify a patient health care facility or health care practitioner.
- (2) "Contractor" means that individual, partnership, corporation or other entity performing trauma registry services under a contractual agreement with the department.
- (3) "Deidentified information" means records and information contained in the trauma registry, including compilations and analyses thereof, which does not contain information which might identify a patient, health care facility or health care practitioner.
- (4) "Department" means the bureau of emergency medical services of the Idaho department of health and welfare.
- (5) "Trauma" is the result of an act or event that damages, harms or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy or from the absence of such essentials as heat or oxygen.
- (6) "Trauma registry" means the population based data system that provides ongoing and systematic collection, analysis, interpretation, and dissemination of information related to injury for system improvement, prevention and

research activities. Elements in the registry shall describe the nature and scope of the injury problem, identify the incidence and prevalence of traumatic injury, severity of injury, performance of out-of-hospital and hospital emergency medical systems, patient outcome, and the impact of trauma on the health care system.

(7) "Trauma system" means the organized approach to treating injured patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated trauma care. Trauma systems represent a continuum of care that is fully integrated into the emergency medical services system and is a coordinated effort between out-of-hospital and hospital providers with the close cooperation of medical specialists in each phase of care. The focus is on prevention, coordination of acute care, and aggressive rehabilitation. Ideally, systems are designed to be inclusive of all injured patients requiring acute care facilities, striving to meet the needs of the patient, regardless of the severity of injury, geographic location or population density. Ultimately, a trauma system seeks to prevent injuries from happening and the reduction of death and disability when it does happen.

**57-2003. ESTABLISHMENT OF TRAUMA REGISTRY.** The department or an authorized contractor of the department, shall:

- (1) Establish a trauma registry to collect and analyze information on the incidence, severity, causes and outcomes of trauma, and other such data necessary to evaluate trauma and the health system's response to it;
- (2) Establish the data elements and data dictionary, including child specific data elements that hospitals must report, and the time frame and format for reporting by adoption of rules in the manner provided in chapter 52, title 67, Idaho Code;
- (3) Support, where necessary, data collection and abstraction by providing:
  - (a) A data collection system and technical assistance to each hospital; and
  - (b) Funding or, at the discretion of the department, personnel for collection and abstraction for each hospital.

**57-2004. PARTICIPATION IN PROGRAM.**

- (1) Each licensed hospital shall each case of trauma which meets the inclusion criteria to the department or the authorized contractor of the department within one hundred eighty (180) days of treatment.
- (2) Each report of trauma shall include information as defined by the department.
- (3) The department or authorized contractor of the department shall have physical access to all records which would identify reportable cases and/or establish characteristics, treatment or medical status of reportable cases in the event that there has been a failure to report as delineated in subsections (1) and (2) of this section.
- (4) Nothing in this chapter shall prevent the department or authorized contractor from identifying and reporting cases using data linkages with death records, other trauma registries, and other potential sources.

**57-2005. CREATION OF TRAUMA REGISTRY FUND -- PURPOSE.** There is hereby created and established in the state treasury a fund to be known as the "Trauma Registry Fund" to which shall be deposited the revenues derived from grants, appropriations or other sources of funds. All moneys now or hereafter in the trauma registry fund are hereby dedicated for the purpose of contracting for and obtaining the services of a continuous registry of all trauma incident patients in the state of Idaho and maintaining cooperative exchange of information with other states providing a similar trauma incident registry. The department of health and welfare, bureau of emergency medical services, is charged with the administration of this fund for the purposes specified herein. All claims against the fund shall be examined, audited and allowed in the manner now or hereafter provided by law for claims against the state of Idaho.

**57-2006. CONFIDENTIALITY.**

- (1) Information and records contained in the trauma registry shall be kept confidential and may be released only as provided by this chapter and the rules of the department.
- (2) The department and authorized contractor may enter into agreements to exchange confidential information with other trauma registries in order to obtain complete reports of Idaho residents treated in other states and to provide information to other states regarding their residents treated in Idaho. Agreements sharing information from the trauma registry shall include a provision requiring the receiving agency to keep such information confidential.
- (3) The department and authorized contractor may, in their discretion, publish or furnish to health researchers and the public, deidentified information including compilations and analyses thereof.
- (4) The department and authorized contractor may furnish confidential information to other trauma registries, federal trauma programs, or health researchers in order to perform and collaborate with research studies. Persons and entities receiving confidential information for research purposes must comply with rules of the department relating to the confidentiality of trauma registry records and information.

(5) The department and authorized contractor may furnish confidential information relating to a specific licensed hospital, including compilations and analyses of such confidential information, to the specific licensed hospital to which it relates.

(6) Trauma registry records and information shall not be available for purposes of litigation except by order of the court. Any such order shall contain such protective provisions as are reasonable and necessary to prevent the public or further disclosure of the records and information and shall contain a provision requiring the destruction of the records and information when no longer needed for the litigation.

#### **57-2007. LIABILITY.**

(1) No action for damages arising from the disclosure of confidential information may be maintained against any reporting entities or employees of such entities that participate in good faith in the reporting of trauma registry data in accordance with this chapter.

(2) No license of a health care facility or health care practitioner may be denied, suspended or revoked for the good faith disclosure of confidential information in accordance with this chapter.

(3) The immunity granted in subsections (1) and (2) of this section shall not be construed to apply to the unauthorized disclosure of confidential information when such disclosure is due to gross negligence or willful misconduct of the reporting entities.

## **TITLE 59 PUBLIC EMPLOYEES RETIREMENT SYSTEM**

### **59-1303. ADDITIONAL DEFINITIONS FOR POLICE OFFICER STATUS.**

(1) As used in this chapter, each of the terms defined in this section shall have the meaning given in this section unless a different meaning is clearly required by the context.

(2) Police officer membership status for retirement purposes may be fixed only by law, or by order of the retirement board.

(3) Members holding or filling the following positions or offices are designated by law as police officer members for retirement purposes during the time of their appointment to that position or during their term of office:

- (a) (i) The director and deputy director of the Idaho state police.
  - (ii) Commissioned personnel of the Idaho state police holding positions which involve active law enforcement services, for which current POST certification is required to continue in employment in the position, POST training coordinators, and Idaho state police training coordinators.
  - (iii) Brand inspectors and brand inspector supervisors.
  - (iv) Employees of the Idaho state police serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
- (b) (i) County sheriffs;
  - (ii) Deputy county sheriffs holding positions for which current POST certification is necessary to continue in employment in the position, and the principal duties of which are active law enforcement service, accountability for the safety and safekeeping of persons confined in a county confinement facility, or active participation in county law enforcement activities pertaining to crime prevention or reduction. Deputy sheriffs, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, dispatcher, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.
- (c) (i) City police chiefs;
  - (ii) City police officers holding positions for which current POST certification is necessary to continue in employment in the position, and the principal duties of which are active law enforcement service or active participation in city law enforcement activities pertaining to crime prevention or reduction. Police officers, even though POST certified or required to be POST certified, holding positions whose principal full-time duties are those of a telephone operator, dispatcher, clerk, stenographer, animal control officer, records specialist, or duties not within the scope of active law enforcement service are not eligible for police officer member status.

- (d) Employees of the department of fish and game serving in a conservation officer position for which current POST certification is necessary to continue in employment in that position and which position has as its primary accountability the enforcement of wildlife protection laws and regulations.
  - (e) (i) The director of the department of correction, the deputy director for probation and parole, and wardens of institutions;
    - (ii) Employees of the department of correction accountable for the custody, safety, safekeeping or supervision of persons confined in a department confinement facility and whose work station is located within the confinement facility;
    - (iii) Probation and parole supervisors, probation and parole investigators, and probation and parole officers;
    - (iv) Correctional peace officer training instructors;
    - (v) Employees of the department of correction serving in positions of personnel management, accounting, data processing, clerical services and in like general classifications found in departments throughout state government and not within the scope of active law enforcement service are not eligible for police officer member status.
  - (f) Employees of the adjutant general and military division of the state where military membership is a condition of employment.
  - (g) Magistrates of the district court; justices of the supreme court, judges of the court of appeals, and district judges who have made an election under section 1-2011, Idaho Code; and court employees designated by court order to have primary responsibility for court security or transportation of prisoners.
  - (h) Employees whose primary function requires that they are certified by the Idaho department of health and welfare as an emergency medical technician-basic, an advanced emergency medical technician-ambulance, an emergency medical technician-intermediate, or an emergency medical technician-paramedic.
  - (i) Criminal investigators of the attorney general's office, and criminal investigators of a prosecuting attorney's office.
  - (j) The director of security and the criminal investigators of the Idaho state lottery.
- (4) A member may be designated by the retirement board as a police officer member for retirement purposes if the position held is one in which the principal duties involve hazardous law enforcement duties.
- (a) For purposes of this section, "hazardous law enforcement duties" means principal duties which:
    - (i) Will reasonably expect to increase the probability of early superannuation;
    - (ii) Are associated with life-threatening risk or present a position of peril either to the member or to others, or which can place the public safety in jeopardy; and
    - (iii) Either compel others to observe the law, pertain to crime prevention, or pertain to crime reduction, including police, courts, prosecution, correction, or rehabilitation.
  - (b) If continued employment in a position is conditioned on maintaining current POST certification, such condition shall be evidence to be considered that the employee is a police officer member for retirement purposes.
    - (i) After July 1, 1999, a requirement for POST certification for classified state employees may be made only by the administrator of the division of human resources pursuant to chapter 53, title 67, Idaho Code.
  - (c) Occasional assignments to hazardous law enforcement duties do not create a condition for designation as a police officer member for retirement purposes.
- (5) Any employer or agency that believes that any employee, not specifically designated as a police officer by law, is incorrectly classified as a nonpolice officer member, may petition the retirement board for inclusion of that employee's position as one to be filled by a police officer member for retirement purposes. The petition shall be in writing and shall explain in detail the principal duties of the position and include written evidence which establishes that the criteria of subsection (4) are met. The board shall review the petition and evidence, together with such information and evidence as may be presented by the staff of the retirement system. The board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the board. The decision of the board shall be final, but a similar petition may be resubmitted after six (6) months.
- (6) On and after July 1, 1985, no active member shall be classified as a police officer for retirement purposes unless the employer shall have certified to the board, on a form provided by the board, that such member is an employee whose primary position with the employer is one designated as such within the meaning of this chapter, and the board shall have accepted such certification. Acceptance by the board of an employer's certification shall in no way limit the board's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to the board.
- (7) An active member classified as a police officer for retirement purposes whose position is reclassified to that of a general member for retirement purposes as a result of a determination that the position does not meet the requirements



of this chapter for police officer status for retirement purposes shall become a general member but shall not lose retirement benefits earned and accrued prior to the reclassification. If that member continues to be employed in that same position until retired, that member then will be deemed to be a police officer member for the purposes of retirement eligibility.

## **TITLE 63 REVENUE AND TAXATION**

### **63-802. LIMITATION ON BUDGET REQUESTS -- LIMITATION ON TAX CHARGES -- EXCEPTIONS.**

(1) Except as provided in subsection (3) of this section, no taxing district shall certify a budget request for an amount of property tax revenues to finance an annual budget that exceeds the greater of paragraphs (a) through (i) of this subsection inclusive:

- (a) The dollar amount of property taxes certified for its annual budget for any one (1) of the three (3) tax years preceding the current tax year, whichever is greater, for the past tax year, which amount may be increased by a growth factor of not to exceed three percent (3%) plus the amount of revenue calculated as described in this subsection. Multiply the levy of the previous year, not including any levy described in subsection (4) of this section, or any school district levy reduction resulting from a distribution of state funds pursuant to section [63-3638](#)(10), Idaho Code, by the value shown on the new construction roll compiled pursuant to section [63-301A](#), Idaho Code; and by the value of annexation during the previous calendar year, as certified by the state tax commission for market values of operating property of public utilities and by the county assessor;
- (b) The dollar amount of property taxes certified for its annual budget during the last year in which a levy was made;
- (c) The dollar amount of the actual budget request, if the taxing district is newly created except as may be provided in subsection (1)(h) of this section;
- (d) In the case of school districts, the restriction imposed in section [33-802](#), Idaho Code;
- (e) In the case of a nonschool district for which less than the maximum allowable increase in the dollar amount of property taxes is certified for annual budget purposes in any one (1) year, such a district may, in any following year, recover the foregone increase by certifying, in addition to any increase otherwise allowed, an amount not to exceed one hundred percent (100%) of the increase originally foregone. Said additional amount shall be included in future calculations for increases as allowed;
- (f) In the case of cities, if the immediately preceding year's levy subject to the limitation provided by this section, is less than 0.004, the city may increase its budget by an amount not to exceed the difference between 0.004 and actual prior year's levy multiplied by the prior year's market value for assessment purposes. The additional amount must be approved by sixty percent (60%) of the voters voting on the question at an election called for that purpose and held on the date in May or November provided by law, and may be included in the annual budget of the city for purposes of this section;
- (g) A taxing district may submit to the electors within the district the question of whether the budget from property tax revenues may be increased beyond the amount authorized in this section, but not beyond the levy authorized by statute. The additional amount must be approved by sixty-six and two-thirds percent (66 2/3%) or more of the voters voting on the question at an election called for that purpose and held on the May or November dates provided by section [34-106](#), Idaho Code. If approved by the required minimum sixty-six and two-thirds percent (66 2/3%) of the voters voting at the election, the new budget amount shall be the base budget for the purposes of this section;
- (h) When a nonschool district consolidates with another nonschool district or dissolves and a new district performing similar governmental functions as the dissolved district forms with the same boundaries within three (3) years, the maximum amount of a budget of the district from property tax revenues shall not be greater than the sum of the amounts that would have been authorized by this section for the district itself or for the districts that were consolidated or dissolved and incorporated into a new district;
- (i) In the instance or case of cooperative service agencies, the restrictions imposed in sections [33-315](#) through [33-318](#), Idaho Code.

(2) In the case of fire districts, during the year immediately following the election of a public utility or public utilities to consent to be provided fire protection pursuant to section [31-1425](#), Idaho Code, the maximum amount of property tax revenues permitted in subsection (1) of this section may be increased by an amount equal to the current year's

taxable value of the consenting public utility or public utilities multiplied by that portion of the prior year's levy subject to the limitation provided by subsection (1) of this section.

(3) No board of county commissioners shall set a levy, nor shall the state tax commission approve a levy for annual budget purposes which exceeds the limitation imposed in subsection (1) of this section, unless authority to exceed such limitation has been approved by a majority of the taxing district's electors voting on the question at an election called for that purpose and held pursuant to section [34-106](#), Idaho Code, provided however, that such voter approval shall be for a period of not to exceed two (2) years.

(4) The amount of property tax revenues to finance an annual budget does not include revenues from nonproperty tax sources, and does not include revenue from levies that are voter approved for bonds, override levies or supplemental levies, plant facilities reserve fund levies, school emergency fund levies or for levies applicable to newly annexed property or for levies applicable to new construction as evidenced by the value of property subject to the occupancy tax pursuant to section [63-317](#), Idaho Code, for the preceding tax year.

#### **63-3622O. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS.**

(1) There are exempted from the taxes imposed by this chapter:

- (a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and
- (b) Donations to, sales to, and purchases by the Idaho Foodbank Warehouse, Inc.; and
- (c) Donations to, sales to, and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and
- (d) Sales of clothes to, donations of clothes to, and purchases of clothes by nonsale clothiers; and
- (e) Sales to or purchases by centers for independent living; and
- (f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and
- (g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies;
- (h) Sales to or purchases by a qualifying senior citizen center; and
- (i) Sales to or purchases by the Blind Services Foundation, Inc.
- (j) Donations to, sales to or purchases by the Advocates for Survivors of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation.
- (k) Sales to or purchases by nonprofit organizations offering free dental clinic services to children.
- (l) Admissions to and purchases by museums, as defined in subsection (2) of this section.

(2) As used in this section, these words shall have the following meanings:

- (a) "Educational institution" shall mean nonprofit colleges, universities, public charter schools organized pursuant to chapter 52, title 33, Idaho Code, the Idaho digital learning academy established pursuant to chapter 55, title 33, Idaho Code, and other primary and secondary schools, the income of which is devoted solely to education and in which systematic instruction in the usual branches of learning is given. This definition does not include schools primarily teaching business, dancing, dramatics, music, cosmetology, writing, gymnastics, exercise and other special accomplishments nor parent-teacher associations, parent groups, alumni or other auxiliary organizations with purposes related to the educational function of an institution or collective group of institutions.
- (b) "Hospital" shall include nonprofit institutions licensed by the state for the care of ill persons. It shall not extend to nursing homes or similar institutions.
- (c) "Health-related entities" shall mean the Idaho Cystic Fibrosis Foundation, Idaho Epilepsy League, Idaho Lung Association, March of Dimes, American Cancer Society, Mental Health Association, The Arc, The Children's Home Society of Idaho, American Heart Association, Idaho Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation, Muscular Dystrophy Foundation, National Multiple Sclerosis Society, Rocky Mountain Kidney Association, American Diabetes Association, Easter Seals, Idaho Community Action Agencies, Idaho Primary Care Association and community health centers who are members of the Idaho Primary Care Association, the Idaho Diabetes Youth Programs, Special Olympics Idaho, the Idaho Women's and Children's Alliance, and the Family Services Alliance of Southeast Idaho, together with said entities' local or regional chapters or divisions.
- (d) "Canal companies" shall include nonprofit corporations which are incorporated solely for the purpose of operating and maintaining and are engaged solely in operation and maintenance of dams, reservoirs, canals, lateral and drainage ditches, pumps or pumping plants.

- (e) "Forest protective associations" shall mean associations whose purpose is the furnishing, operating and maintaining of a protective system for the detection, prevention and suppression of forest or range fires. Forest protective associations shall include only those associations with which the state of Idaho has contracted or become a member of pursuant to chapter 1, title 38, Idaho Code.
- (f) "Food banks or soup kitchens" shall mean any nonprofit corporation or association, other than the Idaho Foodbank Warehouse, Inc., one of whose regular activities is the furnishing or providing of food or food products to others without charge.
- (g) "Nonsale clothier" shall mean any nonprofit corporation or association one of whose primary purposes is the furnishing or providing of clothes to others without charge.
- (h) "Clothes" shall mean garments in general, designed or intended to be worn by humans and shall include footwear in addition to wearing apparel.
- (i) "Center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:
- (i) Is designed and operated within a local community by individuals with disabilities;
  - (ii) Provides an array of independent living services and programs; and
  - (iii) Is cross-disability.
- (j) "Political subdivision" means:
- (i) A governmental organization which:
    - 1. Embraces a certain territory,
    - 2. Is organized for public advantage and not in the interest of private individuals or classes,
    - 3. Has been delegated functions of government, and
    - 4. Has the statutory power to levy taxes; or
  - (ii) A public health district created by section 39-408, Idaho Code; or
  - (iii) A soil conservation district as defined in section 22-2717, Idaho Code; or
  - (iv) A drainage district created pursuant to chapter 29, title 42, Idaho Code; or
  - (v) An irrigation district created pursuant to title 43, Idaho Code; or
  - (vi) A state grazing board created by section 57-1204, Idaho Code; or
  - (vii) A water measurement district created pursuant to section 42-705 or 42-706, Idaho Code; or
  - (viii) A ground water management district created pursuant to chapter 51, title 42, Idaho Code.
- (k) "Agency of the state of Idaho" shall mean an office or organization created by the constitution or statutes of this state and constituting a component part of the executive, judicial or legislative branch of the government of this state.
- (l) "Volunteer fire department" means an entity exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which primarily provides fire protection, or fire prevention on a not-for-profit basis to surrounding residents.
- (m) "Licensed emergency medical service agency (EMS)" means an emergency medical service licensed by the EMS bureau of the department of health and welfare and which is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code and which provides emergency medical services on a not-for-profit basis to surrounding residents.
- (n) "Qualifying senior citizen center" means an entity exempt from income tax pursuant to section 501(c)(3) of the Internal Revenue Code and which is a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.
- (3) The exemption granted by subsection (1)(f) of this section does not include any association or other organization whose members are political subdivisions or state agencies unless the organization is expressly created under the joint powers provision of sections 67-2328 through 67-2333, Idaho Code.
- (4) The exemptions granted by subsection (1) of this section do not include the use of tangible personal property by a contractor used to improve real property of an exempt entity when such use is within the definition provided by section 63-3615(b), Idaho Code, whether the use tax liability is included in a contract total or stated separately in a contract.
- (5) There is exempted from the taxes imposed in this chapter, the renting of a place to sleep to an individual by the Idaho Ronald McDonald House.

## **TITLE 67 STATE GOVERNMENT AND STATE AFFAIRS**

**67-820. FLAGS FLOWN AT HALF-STAFF -- DEATH IN LINE OF DUTY FOR POLICE, FIREFIGHTERS, PARAMEDICS OR EMTS.** The governor, upon timely notification and verification of the death of a federal, state or local law enforcement officer, firefighter, paramedic or emergency medical technician who is employed or volunteering for an agency in the state of Idaho and who died in the line of duty, shall direct that the flag of the United States and the state flag be flown at half-staff, from the time of notification to the governor until the day following the memorial service, at the state capitol building and at other state and local government buildings. The flags shall be flown upon an existing flagstaff or flagstaffs or, at the option of the governor, a flagstaff or flagstaffs erected at an appropriate site, after consultation with organizations representing law enforcement officers, firefighters, paramedics or emergency medical technicians regarding the location and design of the flagstaff or flagstaffs. The flag flown over the capitol building in honor of the deceased shall be presented to the family.

### **67-3008. RELEASE OF CRIMINAL HISTORY RECORD INFORMATION.**

- (1) All units of state, city and local governments, as well as any agency of the state created by the legislature which require by statute, rule, or local or county ordinance, fingerprinting of applicants or licensees, are authorized to submit fingerprints to the bureau for examination and further submission, if necessary, to the federal bureau of investigation. The bureau shall be the state's sole source of fingerprint submissions for criminal justice and applicant or licensing purposes to the federal bureau of investigation.
- (2) The department shall provide copies of or communicate information from criminal history records to the following:
  - (a) Criminal justice agencies and the court;
  - (b) A person or public or private agency, upon written application on a form approved by the director and provided by the department, subject to the following restrictions:
    - (i) A request for criminal history records must be submitted in writing or as provided by rule. However, the department shall accept a request presented in person by the subject of the record; and
    - (ii) The request must identify a specific person by name and date of birth. Fingerprints of the person named may be required to establish positive identification; and
    - (iii) Responding to the request does not interfere with the secure and orderly conduct of the department and would not substantially prejudice or prevent the carrying out of the functions of the department; and
    - (iv) A record of an arrest that does not contain a disposition after twelve (12) months from the date of arrest may only be disseminated by the department to criminal justice agencies, to the subject of the record, or to a person requesting the criminal history information with a signed release from the subject of the record; and
    - (v) Any release of criminal history data by the department shall prominently display the statement: "AN ARREST WITHOUT DISPOSITION IS NOT AN INDICATION OF GUILT."
- (3) Judicial review of the department's denial of a request for records shall be in accordance with the provisions of section 9-343, Idaho Code.
- (4) A request for a criminal history record by a criminal justice agency or a court shall take precedence over all other requests. The department shall adopt rules to set forth the manner by which criminal justice agencies and courts without direct access to the public safety and security information system established by section 19-5202, Idaho Code, may request Idaho criminal history record information.
- (5) Unless otherwise provided by law, access authorized under this section to criminal history records does not create a duty upon a person, employer, private agency, or public agency to examine the criminal history record of an applicant, employee or volunteer.
- (6) A person or private agency, or public agency, other than the department, shall not disseminate criminal history record information obtained from the department to a person or agency that is not a criminal justice agency or a court without a signed release of the subject of record or unless otherwise provided by law.
- (7) Direct access to criminal history record information is regulated by chapter 52, title 19, Idaho Code, and the rules adopted pursuant to that chapter.

### **67-8801. IDAHO LAW ENFORCEMENT, FIREFIGHTING AND EMS MEDAL OF HONOR ESTABLISHED.**

There is hereby established a decoration of the Idaho law enforcement, firefighting and EMS medal of honor with accompanying ribbons and appurtenances for award by the governor in the name of the state to any law enforcement officer, firefighter or EMS provider who has been killed or seriously injured in the performance of duty, or who has been

distinguished by exceptionally meritorious conduct, upon nomination of the Idaho law enforcement, firefighting and EMS medal of honor commission.

**67-8802. IDAHO LAW ENFORCEMENT, FIREFIGHTING AND EMS MEDAL OF HONOR COMMISSION CREATED -- MEMBERSHIP -- ESTABLISHMENT OF QUALIFICATIONS FOR AWARD.**

(1) There is hereby created in the office of the governor the Idaho law enforcement, firefighting and EMS medal of honor commission, hereafter referred to as the commission, which shall nominate candidates for the award of the Idaho law enforcement, firefighting and EMS medal of honor. The commission shall consist of one (1) representative from each of the following: the office of the governor, the office of the attorney general, the Idaho prosecuting attorneys association, the Idaho chiefs of police association, the Idaho fire chiefs association, the Idaho sheriffs' association, the Idaho peace officers association, the Idaho department of health and welfare bureau of emergency medical services and the peace officers standards and training council. Members of the commission shall be appointed by the governor and shall each serve for a term of four (4) years.

(2) The attorney general or his designee shall serve as chair of the commission and shall designate a secretary for the commission.

(3) The commission shall meet annually, or at the call of the chair, to consider candidates for nomination. Commission meetings may be conducted via teleconference.

(4) The commission shall adopt rules establishing the qualifications for the Idaho law enforcement, firefighting and EMS medal of honor and the protocol governing the decoration, and other rules necessary to carry out the purposes of this chapter.

**67-8803. WHEN AND BY WHOM AWARDED.** The Idaho law enforcement, firefighting and EMS medal of honor shall be awarded by the governor to the recipients during the national law enforcement recognition week. The governor may delegate the awarding of the medal to the lieutenant governor or the attorney general.

**67-8804. POSTHUMOUS AWARD.** The Idaho law enforcement, firefighting and EMS medal of honor may be awarded posthumously by presentation to a representative of the deceased as may be deemed appropriate by the governor or the designees specified in section 67-8803, Idaho Code.

**67-8805. DESIGN AND COST.** The decoration of the Idaho law enforcement, firefighting and EMS medal of honor shall be cast in bronze or other metal. The design of the medal shall incorporate the great seal of the state of Idaho with other insignia as deemed appropriate by the law enforcement, firefighting and EMS medal of honor commission. The reverse of the decoration shall be inscribed with the words: "For exceptionally honorable and meritorious conduct in performing services as a law enforcement officer, firefighter or EMS provider." The cost of the medal shall be paid by the agency whose officer, firefighter or EMS provider receives the medal. The family of a recipient may request a second medal and may receive such medal upon payment to the commission of the cost of the medal.

**67-8806. DEFINITIONS.** As used in this chapter:

(1) "EMS" means emergency medical services; and

(2) "Emergency medical services provider" or "EMS provider" means an emergency medical services provider certified by the department of health and welfare pursuant to sections 56-1011 through 56-1018B, Idaho Code, and an ambulance-based clinician as defined in the rules governing emergency medical services as adopted by the department of health and welfare.